



# भारत का राजपत्र The Gazette of India

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सं. 40] नई दिल्ली, अक्टूबर 1—अक्टूबर 7, 2023, शनिवार/ आश्विन 9—आश्विन 15, 1945  
No. 40] NEW DELHI, OCTOBER 1—OCTOBER 7, 2023, SATURDAY/ASVINA 9—ASVINA 15, 1945

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

गृह मंत्रालय  
(सीटीसीआर प्रभाग)

नई दिल्ली, 4 अक्टूबर, 2023

का.आ. 1599.—केंद्रीय सरकार, दंड प्रक्रिया संहिता 1973 (1974 का 2) की धारा 24 की उप-धारा (8) के साथ पठित राष्ट्रीय अन्वेषण अभिकरण अधिनियम, 2008 (2008 का 34) की धारा 15 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, अधिसूचना का. आ. 3104 (अ) दिनांक 09 सितम्बर 2020 के द्वारा निम्नलिखित अधिवक्ताओं को अधिसूचना के प्रकाशित होने की तिथि से तीन वर्षों की अवधि के लिए उनके नामों के समक्ष दर्शाए गए राज्यों/केंद्र शासित प्रदेश में विधि द्वारा स्थापित किसी विशेष न्यायालय, एन आई ए और उच्च न्यायालय के समक्ष राष्ट्रीय अन्वेषण अभिकरण की ओर से मामलों में पैरवी करने के लिए, विशेष लोक अभियोजकों के रूप में नियुक्त किया था:-

क्र.सं.	विशेष लोक अभियोजक का नाम	राज्य/केंद्र शासित प्रदेश
1	श्री राम बिनय सिंह	बिहार
2	श्री दिनेश पाणिग्रही	छत्तीसगढ़

3	श्री रवि भूषण शर्मा	दिल्ली
4	श्री राहुल त्यागी	दिल्ली

अब, केंद्रीय सरकार, दंड प्रक्रिया संहिता 1973 (1974 का 2) की धारा 24 की उप-धारा (8) के साथ पठित राष्ट्रीय अन्वेषण अभिकरण अधिनियम, 2008 (2008 का 34) की धारा 15 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उपरोक्त अधिवक्ताओं को विशेष लोक अभियोजकों के रूप में नियुक्ति की मियाद को तीन वर्षों की अवधि के लिए एतद् द्वारा, बढ़ाती है।

[फा. सं. 11011/40/2019/एनआईए (पार्ट-I)]

विपुल आलोक, अवर सचिव

## MINISTRY OF HOME AFFAIRS

### (CTCR DIVISION)

New Delhi, the 4th October, 2023

**S.O. 1599.**—In exercise of the powers conferred by sub-section (1) of section 15 of the National Investigation Agency Act, 2008 (34 of 2008), read with sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government, vide Gazette Notification S.O. 3104(E) dated, the 09<sup>th</sup> September 2020, had appointed following advocates as Special Public Prosecutors for conducting the cases on behalf of the National Investigation Agency before any Special Courts, NIA and High Courts established by law in territory of the States and Union Territory indicated against their names for a period of three years with effect from the date of publication of the said notification:-

S.N.	Name of Special Public Prosecutor	State/UTs
1	Sh. Ram Binay Singh	Bihar
2	Sh. Dinesh Panigrahi	Chhattisgarh
3	Sh. Ravi Bhushan Sharma	Delhi
4	Sh. Rahul Tyagi	Delhi

Now, in exercise of the powers conferred by sub-section (1) of section 15 of the National Investigation Agency Act, 2008 (34 of 2008), read with sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby extends the term of engagement of the aforesaid advocates as Special Public Prosecutors for a further period of three years.

[F. No. 11011/40/2019/NIA (Part-I)]

VIPUL ALOK, Under Secy.

## कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

### (कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 13 सितम्बर, 2023

**का.आ. 1600.**—केन्द्र सरकार एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना के सदस्यों द्वारा भी अन्वेषण किए जाने के लिए विनिर्दिष्ट करती है, नामतः:-

(क) “जैव विविधता अधिनियम, 2002 (2003 का अधिनियम 18)” के तहत दण्डनीय अपराध;

- (ख) उपर्युक्त अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध(धों)।

[फा. सं. 228/49/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS  
(DEPARTMENT OF PERSONNEL AND TRAINING)**

New Delhi, the 13th September, 2023

**S.O. 1600.**—In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government hereby specifies the following offences which are also to be investigated by the members of the Delhi Special Police Establishment, namely :-

- (a) Offence punishable under “The Biological Diversity Act, 2002 (Act 18 of 2003)”;
- (b) Any attempt, abetment and/or conspiracy, in relation to or in connection with above mentioned offence(s) and/or for any other offence(s) committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/49/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 18 सितम्बर, 2023

**का.आ. 1601.**—केन्द्र सरकार एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए कर्नाटक राज्य सरकार का आदेश सं. एचडी 39 सीओडी 2022, दिनांक 13.03.2023, गृह विभाग (क्राइम्स), बंगलुरु के माध्यम से जारी सम्मति से अभिकथित दुर्विनियोजन में संलिप्त व्यक्तियों के विरुद्ध कर्नाटक राज्य मुक्त विश्वविद्यालय (कर्नाटक स्टेट ओपन युनिवर्सिटी) और भारत भर में फैले इसके सहयोगी संस्थानों से वर्ष 2009-10 से 2015-16 के लिए संग्रहित शुल्क के दुर्विनियोजन से जुड़े अपराध(धों) का अन्वेषण करने तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त कर्नाटक राज्य में करती है।

[फा. सं. 228/46/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 18th September, 2023

**S.O. 1601.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Karnataka, issued vide Order No. HD 39 COD 2022 dated 13.03.2023, Home Department (Crimes), Bengaluru, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Karnataka for investigation into the offence(s) pertaining to misappropriation of fees collected for the period 2009-10 to 2015-16 from Karnataka State Open University and its collaborative institutions spread all over India against the persons involved in connection with the alleged misappropriation and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/46/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 18 सितम्बर, 2023

**का.आ. 1602.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, झारखंड राज्य सरकार की अधिसूचना सं.-10/सी.बी.आई.-409/2023-3250/रांची, दिनांक 20.07.2023, गृह, कारागार एवं आपदा प्रबंधन विभाग, रांची के माध्यम से जारी सम्मति से, श्री संतोष रस्तोगी, महानिरीक्षक (इन्व.-II), राष्ट्रीय जाँच एजेंसी, नई दिल्ली द्वारा केंद्र सरकार के कर्मचारियों व अन्य नामतः (1) श्री विमल कांत शुक्ला, तत्कालीन परियोजना अधिकारी, पिपरवार परियोजना, (2) श्री भागीरथ प्रसाद सिंह, तत्कालीन परियोजना अधिकारी, अशोका परियोजना, (3) श्री दीपक कुमार वर्मा, तत्कालीन वरिष्ठ प्रबंधक (वित्त) (एल&आर), (4) श्री परणव कुमार सिन्हा, तत्कालीन वरिष्ठ प्रबंधक (एम) (एल&आर), सीसीएल, मुख्यालय, (5) श्री दिलीप कुमार, तत्कालीन अंचल अधिकारी, तंडवा, (6) श्री दीपक कुमार उर्फ दीपक गंजू, (7) श्री तूफान गंजू, सीसीएल के अज्ञात अधिकारियों व अन्य के विरुद्ध भारतीय दंड संहिता (1860 का 45) की धारा 120-बी सपठित धाराएं 420, 467, 468 और 471 तथा भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) की धारा 13(2) सपठित धारा 13(1)(डी) के तहत दंडनीय अपराध(धों) के संबंध में दिनांक 22.12.2020 को दर्ज कराई गई शिकायत से उत्पन्न अपराध(धों) का अन्वेषण करने तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त झारखंड राज्य में करती है।

[फा. सं. 228/53/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 18th September, 2023

**S.O. 1602.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand, issued vide Notification No.-10/C.B.I.-409/2023-3250/Ranchi dated 20.07.2023, Home, Prisons and Disaster Management Department, Ranchi, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Jharkhand for investigation into the offence(s) arising out of the complaint dated 22.12.2020 lodged by Shri Santosh Rastogi, Inspector General (Inv.-II), National Investigation Agency, New Delhi against Central Government employees and others namely (1) Shri Vimal Kant Shukla, the then Project Officer, Piparwar Project, (2) Shri Bhagirath Prasad Singh, the then Project Officer, Ashoka Project, (3) Shri Deepak Kumar Verma, the then Sr. Manager (Fin.)(L&R), (4) Shri Paranaw Kumar Sinha, the then Sr. Manager (M) (L&R), CCL, HQ, (5) Shri Dileep Kumar, the then Circle Officer, Tandwa, (6) Shri Deepak Kumar @ Deepak Ganju, (7) Shri Toofan Ganju, unknown officials of CCL and others, punishable under section 120-B r/w sections 420, 467, 468 and 471 of the Indian Penal Code (45 of 1860) and section 13(2) r/w section 13(1)(d) of the Prevention of Corruption Act, 1988 (49 of 1988) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/53/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

नई दिल्ली, 27 सितम्बर, 2023

**का.आ. 1603.**—केन्द्र सरकार, एतद् द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार के आदेश सं. सीआईटी-3423/सी.आर.75/पोल-11, दिनांक 01.03.2023, गृह विभाग, मुंबई के माध्यम से जारी सम्मति से दिनांक 14.11.2022 को पुलिस स्टेशन वर्ली में पंजीकृत किए गए प्रकरण सीआर(एफआईआर) सं. 1181 से संबंधित अपराध(धों), जो भारतीय दंड संहिता, 1860 (1860 की 45) की धारा 120बी, 384 और 386 के तहत दण्डनीय हैं, का

अन्वेषण करने तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त महाराष्ट्र राज्य में करती है।

[फा. सं. 228/17/2023-एवीडी-II]

संजय कुमार चौरसिया, अवर सचिव

New Delhi, the 27th September, 2023

**S.O. 1603.**—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Maharashtra, issued vide Order No. CIT-3423/C.R.75/Pol-11 dated 01.03.2023, Home Department, Mumbai, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Maharashtra for investigation into the offence(s) relating to CR(FIR) No. 1181 dated 14.11.2022 registered at Police Station Worli, under sections 120B, 384 and 386 of the Indian Penal Code, 1860 (45 of 1860) and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/17/2023-AVD-II]

SANJAY KUMAR CHAURASIA, Under Secy.

### विद्युत मंत्रालय

नई दिल्ली, 3 अक्तूबर, 2023

**का.आ. 1604.**—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन एनर्जी एफिशिएंसी सर्विसेज लिमिटेड के निम्नलिखित कार्यालयों, जिनके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

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|---|--|
| 1. एनर्जी एफिशिएंसी सर्विसेज लिमिटेड,<br>एनएफएल बिल्डिंग, 5वां एवं 6ठा तल,<br>कोर-3, स्कोप कॉम्प्लेक्स, लोधी रोड,<br>नई दिल्ली-110003                                   | 4. एनर्जी एफिशिएंसी सर्विसेज लिमिटेड,<br>राज्य कार्यालय छत्तीसगढ़,<br>509-510, 5वां तल, मैग्नेटो मॉल, लाभांडी,<br>रायपुर, छत्तीसगढ़-492001                     |
| 2. एनर्जी एफिशिएंसी सर्विसेज लिमिटेड,<br>क्षेत्रीय कार्यालय पटना,<br>5 <sup>म</sup> मंजिल, हर्षवर्धन आर्केड,<br>लोक नायक भवन के पास, फ्रेज़र रोड,<br>पटना-800001, बिहार | 5. एनर्जी एफिशिएंसी सर्विसेज लिमिटेड,<br>क्षेत्रीय कार्यालय शिमला,<br>प्रथम तल, ठाकुर निवास,<br>एचडीएफसी लाइफ के सामने, खालिनी,<br>शिमला-171002, हिमाचल प्रदेश |
| 3. एनर्जी एफिशिएंसी सर्विसेज लिमिटेड,<br>क्षेत्रीय कार्यालय जयपुर,<br>द्वितीय मंजिल, एनबीसीसी सेंटर,<br>सहकार मार्ग, जयपुर-302007,<br>राजस्थान                          | 6. एनर्जी एफिशिएंसी सर्विसेज लिमिटेड,<br>क्षेत्रीय कार्यालय मुंबई,<br>ऑफिस नं. 103-106, एफ विंग,<br>पहली मंजिल, टावर-2,<br>नेरुल नवी मुंबई-400706, महाराष्ट्र  |

[फा. सं. 11011/08/9/2023-हिंदी]

नरेंद्र सिंह, मुख्य अभियंता (प्रभारी रा.भा.)

**MINISTRY OF POWER**

New Delhi, the 3rd October, 2023

**S.O. 1604.**—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (Use for Official Purpose of the Union) Rules, 1976, the Central Government hereby notify the following offices of Energy Efficiency Services Limited (EESL) under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi:

- |   |  |
|---|--|
| 1. Energy Efficiency Services Limited,<br>NFL Building, 5th & 6th Floor,<br>Core-III, Scope Complex, Lodhi Road,<br>New Delhi-110003                              | 4. Energy Efficiency Services Limited,<br>State Office Chhattisgarh,<br>509-510, 5th floor,<br>Magneto Mall, Labhandi,<br>Raipur-492001, Chhattisgarh            |
| 2. Energy Efficiency Services Limited,<br>Regional Office Patna,<br>5th Floor, Harshwardhan Arcade,<br>Near Lok Nayak Bhawan, Frazer Road,<br>Patna, Bihar-800001 | 5. Energy Efficiency Services Limited,<br>Regional Office Shimla,<br>1st Floor, Thakur Niwas,<br>Opposite HDFC Life, Khalini,<br>Shimla-171002, Himachal Pradesh |
| 3. Energy Efficiency Services Limited,<br>Regional Office Jaipur,<br>2 <sup>nd</sup> Floor, NBCC Center,<br>Sahakar Marg, Jaipur,<br>Rajasthan-302007             | 6. Energy Efficiency Services Limited,<br>Regional Office Mumbai ,<br>Office No.103-106, F Wing,<br>1st Floor, Tower-2,<br>Nerul Navi Mumbai-400706, Maharashtra |

[F. No.11011/08/9/2023-Hindi]

NARENDER SINGH, Chief Engineer(In-Charge O.L.)

**वाणिज्य एवं उद्योग मंत्रालय****(वाणिज्य विभाग)**

नई दिल्ली, 4 अक्टूबर, 2023

**का.आ. 1605.**—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इन्स्पेक्टोरेट ग्रीफिथ इंडिया प्राइवेट लिमिटेड, एच. न. 341 बी, रेडी पोस्ट पर, तालुका- वेंगुर्ला, जिला -सिंधुदुर्ग, महाराष्ट्र-416517, (जिसे एतद्पश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-1, अर्थात् लौह अयस्क और बॉक्साइट के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन रेडी पत्तन, किरणपत्ती पत्तन, जयगढ़ पत्तन, केलशी पत्तन तथा बंकोट पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- यह अभिकरण, खनिज और अयस्क समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी; और
- यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होंगी।

[फा. सं. के-16014/8/2023 - निर्यात निरीक्षण]

एम० बालाजी, संयुक्त सचिव

**MINISTRY OF COMMERCE AND INDUSTRY****(Department of Commerce)**

New Delhi, the 4th October, 2023

**S.O. 1605.**—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s Inspectorate Griffith India Pvt, Limited House

No. 341B, At Post Redi, Taluka – Vengurla, District – Sindhudurg, Maharashtra, 416517 (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely, Iron Ore and Bauxite, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20<sup>th</sup> December, 1965, respectively, before export of the said Minerals and Ores at Redi Port, Kiranpani Port, Jaigarh Port, Kelshi Port and Bankot Port, subject to the following conditions, namely: -

- (i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965; and
- (ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time.

[F. No. K-16014/8/2023 - Export Inspection]

M. BALAJI, Jt. Secy.

नई दिल्ली, 4 अक्टूबर, 2023

**का.आ. 1606.**—केन्द्रीय सरकार, निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) के साथ पठित निर्यात (गुणवत्ता नियंत्रण एवं निरीक्षण) नियम, 1964 के नियम 12, के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैसर्स इन्स्पेक्टोरेट ग्रीफिथ इंडिया प्राइवेट लिमिटेड, दूसरी मंजिल, पेरेर चेम्बर, पीई जोस वाज़ रोड, वास्को डी गामा, मोरमुगाओ, गोवा- 403802, (जिसे एतदपश्चात् उक्त अभिकरण कहा जायेगा), को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से तीन वर्ष के लिए, वाणिज्य मंत्रालय की शासकीय राजपत्र में प्रकाशित भारत सरकार की अधिसूचना के साथ अनुसूची में निर्दिष्ट दिनांक 20 दिसम्बर, 1965 की अधिसूचना की संका.आ. 3975 के तहत प्रकाशित अधिसूचना में उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज और अयस्क समूह-1, अर्थात् लौह अयस्क और बॉक्साइट के निर्यात से पूर्व निम्नलिखित शर्तों के अधीन गोवा पत्तन में उक्त खनिज और अयस्क के निरीक्षण करने के लिए एक अभिकरण के रूप में मान्यता देती है, अर्थात् :

- (i) यह अभिकरण, खनिज और अयस्क समूह-1 का निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के अधीन निरीक्षण की पद्धति की जाँच करने के लिये निर्यात निरीक्षण परिषद् द्वारा निमित्त अधिकारियों को पर्याप्त सहयोग और सहायता प्रदान करेगी; और
- (ii) यह अभिकरण, इस अधिसूचना में यथा विनिर्दिष्ट अपने कार्यों का निष्पादन करने के लिए, निदेशक (निरीक्षण और गुणवत्ता नियंत्रण) निर्यात निरीक्षण परिषद् द्वारा समय-समय पर, लिखित रूप में, दिए गए निर्देशों से आबद्ध होगी।

[फा. सं. के-16014/9/2023 - निर्यात निरीक्षण]

एम० बालाजी, संयुक्त सचिव

New Delhi, the 4th October, 2023

**S.O. 1606.**—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963) read with sub-rule (2) of rule 12 of the Export (Quality Control and Inspection) Rules, 1964, the Central Government now recognizes, M/s Inspectorate Griffith India Pvt. Limited, 2nd floor, Pereir Chamber, PE Jose Vaz Road, Vasco Da Gama, Mormugao, Goa-403802 (hereinafter referred to as the said agency), as an agency for three years with effect from the date of publication of this notification in the Official Gazette, for the inspection of Minerals & Ores, Group - I, namely, Iron Ore and Bauxite, as specified in the Schedule annexed to the notification of the Government of India in the Ministry of Commerce, published in the Official Gazette *vide* number S.O.3975 dated 20<sup>th</sup> December, 1965, respectively, before export of the said Minerals and Ores at Goa Port, subject to the following conditions, namely: -

- (i) the said agency shall extend adequate cooperation and assistance to the officers nominated by the Export Inspection Council on this behalf to carry out the inspection specified under rule 4 of the Export of Minerals and Ores – Group I (Inspection) Rules, 1965; and
- (ii) the said agency, in performance of their function as specified in this notification, shall be bound by such directions, as the Director (Inspection and Quality Control), Export Inspection Council may give, in writing from time to time

[F. No. K-16014/9/2023 - Export Inspection]

M. BALAJI, Jt. Secy.

**रेल मंत्रालय  
(रेलवे बोर्ड)**

नई दिल्ली, 16 अगस्त, 2023

**का.आ. 1607.**—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में निम्नलिखित कार्यालयों जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करता है:-

1. प्रधान कार्यालय, दक्षिण पश्चिम रेलवे, हुबबलि.
2. मुख्य परियोजना निदेशक, केन्द्रीय रेल विद्युतीकरण संगठन, कोलकाता.
3. मंडल रेल प्रबंधक कार्यालय, दक्षिण मध्य रेलवे, गुंटूर.
4. गुंटुपल्ली कारखाना, दक्षिण मध्य रेलवे, सिकंदराबाद.

[फा. सं. हिंदी-2023/रा.भा.-1/12/1/( 1561389)]

डॉ. बरुण कुमार, निदेशक (राजभाषा)

**MINISTRY OF RAILWAYS**

(Railway Board)

New Delhi, the 16th August, 2023

**S.O. 1607.**—Ministry of Railways (Railway Board) in pursuance of Sub Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the Official purposes of the Union) hereby, notify the following offices where 80% or more Officers/ Employees have acquired the working knowledge of Hindi:-

1. Headquarters, South Western Railways, Hubballi.
2. Chief Project Director's Office, Central Organisation for Railway Electrification, Kolkata.
3. Divisional Railway Manager, South Central Railway, Guntur.
4. Guntupalli Workshop, South Central Railway, Secunderabad.

[F. No. Hindi-2023/O.L-1/12/1/( 1561389)]

Dr. BARUN KUMAR, Director(O.L.)

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 31 अगस्त, 2023

**का.आ. 1608.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एंड जयपुर के प्रबंधन, संबंधित नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कोलकता के पंचाट (09/2001) प्रकाशित करती है।

[सं. एल-12011/45/2000- आई आर (बी-1)]

सलोनी, उप निदेशक

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 31st August, 2023

**S.O. 1608.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.09/2001) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of State Bank of Bikaner and Jaipur and their workmen.

[No. L-12011/45/2000- IR(B.I)]

SALONI, Dy. Director



**ANNEXURE**  
**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA**

**Present : Justice K. D. Bhutia, Presiding Officer.**

**REF. NO. 09 OF 2001**

**Parties : Employers in relation to the management of**

**State Bank of Bikaner and Jaipur**

**AND**

**It's Workmen/Union**

Appearance:

On behalf of Central Bank of India: Absent

On behalf of the Workman : Absent

**Dated: 13<sup>th</sup> July, 2023**

**AWARD**

By Order No. L-12011/45/2000/IR(B-I) dated 15-02-2001 the Govt. of India, Ministry of Labour, in exercise of power conferred under section 10(1)(d) and (2A) of the Act of 1947 has referred the following issue to this Tribunal for adjudication.

“Whether the action of the State Bank of Bikaner and Jaipur in not regularising the service of its canteen employees as per annexure enclosed herewith in the service of the bank and refusing them to grant and scale and all other benefits available to the members of subordinate staff of the bank is justified? If not, what relief are the concerned workmen entitled?”

The facts necessary for the determination of the above issue are in brief is that the State Bank of Bikaner and Jaipur was a subsidiary bank of the State Bank of India constituted under SBI (Subsidiary Bank) Act 1959. The State Bank of Bikaner and Jaipur is now has become State Bank of India on and after 22-02-2017 by virtue of a Gazette of India Extraordinarily Notification dated 22-02-2017, State Bank of Bikaner and Jaipur has been acquired by the State Bank of India.

The erstwhile State Bank of Bikaner and Jaipur at its N.S. Road Branch had a canteen run by the Local Implementation Committee. However, the union which has espoused the present dispute has alleged it was the bank which used to aid and control the management of the canteen by granting subsidy, providing space, furniture, crockeries, electricity, gas etc. The bank provided subsidy for making payment of wages to the canteen staff. The wages of those canteen staff was directly paid by the bank and it was the bank which used to decide on the increment in their wages. The canteen facility is incidental to running of the bank and it is an obligation on the part of the management of the bank to provide canteen facility to its employees.

The bank adopted unfair labour practice and to deprive them the facilities and benefits of a regular subordinate/Group-IV staff of the bank, the bank never issued any appointment letter to them and minimum basic wages which was otherwise paid to the Group-IV staff of the bank and who are also entitled to get 45 days leave, medical allowance, DA, HRA, CCA, washing allowance etc.

It has been alleged by the Union that Local Implementation Committee /Canteen Administrative Committee or any other intermediary committee is nothing but an agent of the bank and which has no independent legal and factual existence. It is the bank which directly control the administrative and financial matter of the canteen. The presence of intermediary is of no consequence when on lifting the veil or looking at the conspectus of factors governing employment, the naked truth, though draped in different malafide arrangements will be discerned that the real employer is bank and not the intermediary committee of which chairman is a high officer of the bank and other members are also employees of the bank.

The Union raises dispute before the management of the bank claiming regularisation of those canteen staff as Group-IV staff of the bank, but management never paid heed to its written representation and finding no other alternative, the Union had to initiate an industrial dispute before the Regional Labour Commissioner, Kolkata. Conciliation failed. Hence, this reference.

Per contra the management of the bank has alleged the bank created a several welfare fund. The Board of Directors of the bank, at their discretion allocate the amount to be expended from time to time for the purpose of staff welfare. The said funds are utilised in various welfare activities of the staff of the bank. The funds allocated for welfare activities are paid by the bank Head Office Welfare Committee of the employees in the respective branches, Zonal Office, Administrative office/ head office. The bank never engaged any canteen staff as the canteen is not managed by the bank. In order run the canteen, the local implementation committee engaged canteen staff. The local implementation committee in the absolute discretion fix the wages or salary of the persons engaged by them. The post of canteen staff cannot be compared with the Group-IV staff of the bank. The bank has no control over the

appointment of a canteen staff or their attendant or cessation. The bank has no right to supervise or control the work done by the staff of the canteen. The bank has no right to take disciplinary action against the canteen staff. The bank has no authority to instruct canteen staff in which manner the work has to be discharged. There is no post of canteen staff in the bank. That canteen facility is not a part of the service condition of the bank employees. The service conditions of the bank staff are governed by the bipartite settlement and no part of the bipartite settlement makes obligatory to the bank to provide canteen facility to its staff. The bank only provides subsidy to the local implementation committee from the staff welfare fund. The bank from time to time increase the amount in the welfare fund as per circular issued. The circular dated 07-08-1989 clearly provides the bank has no responsibility towards canteen staff engaged by the local implementation committee. That expenditure incurred by the canteen is borne by the local implementation committee or the fund provides by the bank in the staff welfare fund and sale proceeds of the canteen. That services render by the canteen boys are not incidental to the business of the bank.

As per the Govt. of India guidelines there is a set procedure for appointment in subordinate cadre in the bank without following which no one can be appointed in the bank and there has to be vacancy and one should be aged between 18 to 26 years with minimum educational qualification. Therefore, it has prayed for rejection of the claim of the canteen staff for their absorption as regular staff of the bank in the category of Group-IV.

The Union in order to substantiate its claim that canteen is a part and parcel of the establishment of the bank and as such the canteen staff are entitled to regularisation in the post of Group-IV of the bank has examined all those six employees namely Sri Sasanka Sekhar Pandey, Sri Tapan Kumar Chakraborty, Sri Subhas Chandra Pandit, Sri Paresh Chandra Sahu, Sri Shyamal Dey and Sri Sukumar Mitra as W.W. No. 1 to W.W. no.6.

Record further shows that during the pendency of the case Sri Subhas Chandra Pandit had expired and his daughter Smt. Madhabi Pandit has been substituted. Said Smt. Madhabi Pandit has been examined by the Union as W.W. No.7.

The management of the bank has examined Sri Samir Kumar Das Chief Manager, Calcutta Service Branch as M.W.no.1.

Having regards to the materials on record, the only question that needs determination in this reference is whether the bank has a statutory obligation to provide canteen facility to its employees?

It is settled principle of law, if there is an obligation to provide a canteen, then the canteen will become a part of the establishment of the bank. The employees working in the canteen would be the employees of the bank. If the bank has no statutory obligation to provide canteen facility to its employees then the employees working in the canteen cannot become the part of the establishment of the bank.

Further, Hon'ble Supreme Court of India in Reserve Bank of India Vs Their Workmen 1996 SCC(3)267, has been pleased to mention the law that emerges from the statute law and the judicial decisions on the issue under what circumstances a canteen can be a part of the establishment and when it cannot be treated as a part of the establishment as follows:-

(i) Whereas under the provisions of the Factories Act, it is statutorily obligatory on the employer to provide and maintain canteen for the use of his employees, the canteen becomes a part of the establishment and, therefore, the workers employed in such canteen are the employees of the management.

(ii) Where, although it is not statutorily obligatory to provide a canteen, it is otherwise an obligation on the employer to provide a canteen, the canteen becomes a part of the establishment and the workers working in the canteen, the employees of the management. The obligation to provide a canteen has to be distinguished from the obligation to provide facilities to run canteen. The canteen run pursuant to the latter obligation, does not become a part of the establishment.

(iii) The obligation to provide canteen may be explicit or implicit. Where the obligation is not explicitly accepted by or cast upon the employer either by an agreement or an award, etc., it may be inferred from the circumstances, and the provisions of the canteen may be held to have become a part of the service conditions of the employees. Whether the provision for canteen service has become a part of the service conditions or not, is a question of fact to be determined on the facts and circumstances in each case. Where to provide canteen services has become a part of the service conditions of the employees, the canteen becomes a part of the establishment and the workers in such canteen become the employees of the management.

(iv) Whether a particular facility or service has become implicitly part of the service conditions of the employees or not, will depend, among others, on the nature of the service/facility, the contribution the service in question makes to the efficiency of the employees and the establishment, whether the service is available as a matter of right to all the employees in their capacity as employees and nothing more, the number of employees employed in the establishment and the number of employees who avail of the service, the length of time for which the service has been continuously available, the hours during which it is available, the nature and character of management, the interest taken by the employer in providing, maintaining, supervising and controlling the service, the contribution made by the management in the form of infrastructure and funds for making the service available etc.

Now, let me decide the present dispute in the light of the above settled principle.

Those six canteen staff during their cross examination have admitted the fact, the canteen in the N.S. Road Branch is run by the Local Implementation Committee. They are paid wages by the said Local Implementation Committee. They were never given any appointment letter. They do not have to submit any leave application either to the management of the bank or to the Local Implementation Committee. They just have to produce medical certificate when they return back from the leave to join the duty.

W.W.No.4 Sri Paresh Chandra Sahu in his evidence in chief has admitted the salary which he gets is through a cheque issued in favour State Bank of Bikaner and Jaipur Staff Welfare Fund and he deposits the cheque in the bank for encashment.

W.W. No.7 Smt. Madhabi Pandit in her evidence in affidavit stated that on the demise of her father on 1<sup>st</sup> July, 2006 she being the only legal heirs, she was appointed to work in the canteen in the N.S. Road Branch. She was given monthly salary of Rs.1250/-. She has also stated that she should be treated as an employee of the bank.

Thus from the evidence of those canteen staff and whose names appears in the order of reference have admitted that there is a Local Implementation Committee in the bank and which runs the canteen in question.

The issue whether the canteens run by the Local Implementation Committee of SBI can be considered to be a part and parcel of the establishment of the bank, has come up for consideration before the Hon'ble Supreme Court of India in State Bank of India –vs- State Bank of India Canteen in Civil Appeal No. 552-553 of 1994 arising out of an Award passed by the predecessor of this tribunal, where similar issue was in dispute and was raised against State Bank of India by its canteen employees. More so, the facts of the present reference case appears to be similar to the one decided by the Apex court in the above cited decision.

The Hon'ble Supreme Court in its judgment dated 17-04-2004 has discussed in details about Sastri Award, Reserve Bank of India vs- Workmen (1996) 3 SCC 267, Hussainbhai vs Alath Factory Thezhilali Union & Ors. (1978) 4 SCC 257, M.M.R. Khan & Ors. Vs Union of India & Ors 1990,(Sup) SCC 191 and Parimal Chandra Raha vs LIC of India (1995) Suppl (2) 611 and observed paragraph 609 of Sastri Award does not cast any obligation that amenities such as canteen club house, payment of taxes, etc. must be provided by the bank. Not a single part of the Sastri Award makes it obligatory for the bank to provide canteen facility by running a canteen. It nowhere provides bank shall provide canteen for its staff. Therefore, held that Sastri Award nowhere cast obligation on the State Bank of India to run a canteen.

The Hon'ble Supreme Court has further observed as per Sastri Award, the bank maintains staff welfare funds for promoting welfare activities and such activities include promotion of canteen facility, library, cultural activities, establishment of Holiday Homes etc. which also provides creation of Local Implementation Committee at each branch, regional office, local head office and central office establishment and other offices and who will determine the particular activity or activities to be conducted at the respective establishment out of the fund allocated to them by the Circle Welfare Committee within the heads of activities specified. The Local Implementation Committee will be in charge of the management of the welfare activities, if necessary through subcommittee and will also suggest which consulted by the Circle Welfare Committee, the particular type of activities which should be undertaken by the respective office. The Local Implementation Committee will render proper account of the Circle Welfare Committee every six months or as otherwise directed.

To provide further subsidy to staff canteen from outside the scope of the staff welfare fund and wages of the canteen employees on a uniform scale on monthly basis paid out of the bank charges account on the basis of the member of the employees served at the canteen and there will be no order to utilise for the canteen any amount excess of its actual wage bill or the prescribed ceiling. Whenever canteen employees are engaged by the Local Implementation Committee the wages in excess of the subsidy will have to be borne by the Local Implementation Committee. Providing for subsidy is based on number of employees working in the branch not on the basis of the persons working in the canteen. There is no compulsion on Local Implementation Committee to run canteen. The Local Implementation Committee may not opt for canteen facility but may opt for other facilities such as sports, games, library, reading rooms etc.

The Hon'ble Supreme Court has been pleased to discuss the settlement dated 31-10-1977, 17-09-1984, 09-01-1981 and 02-04-1992 and held that such settlements nowhere put obligation on the bank to provide canteen facility to its staff. At the most, it can be inferred that Bank has an obligation to promote running of canteens at its branches as a part of its staff welfare activities.

The Local Implementation Committee may have the member of the staff of the bank and a canteen having run under the welfare scheme cannot be said to be an establishment of the bank, though the bank may provide subsidy for payment towards cost incurred against salary, P.F. contribution, gratuity, uniform etc. beside fuel, water, fixture, utensils, furniture, electricity, premises etc. free of charge. The bank has no absolute right to take any disciplinary action or direct any canteen employee to do a particular work. The bank has no direct control and supervision over the canteen run by the Local Implementation Committee. Therefore, there is no obligation on the part of the bank to run a canteen or just because the bank provides subsidy, furniture, fixture, gas and space in the bank, the bank is only promoting the canteen. The bank is not the employer of the canteen workers. It may be audit the work of the Local Implementation Committee just to check whether subsidy given by it is properly utilised or not.

Further, the appointment of the employees by the Bank has been regulated by the State Bank of India General Regulations, which are statutory regulations framed by the Reserve Bank of India with previous sanction of the Central Government in exercise of powers conferred by sub-section (3) of Section 50 of the State Bank of India Act, 1955. In the case of canteen employees run by the LIC, the Bank does not have any control in their appointment and the aforesaid recruitment rules are not required to be observed. The recruitment by the bank is to make as per the statutory rules framed by it after giving proper advertisement, test or interview. No rules has been framed by the bank for appointment of a canteen employee.

Therefore, in view of the above decision of the Hon'ble Supreme Court, a canteen run by Local Implementation Committee of SBI or in the present case by it's the then subsidiary bank is not a part of the establishment of the Bank or there was no obligation on the part of the bank to set up a canteen, rather it appears as a welfare measure to its staff the bank has promoted a canteen run by local implementation committee by providing a space, furniture, fixtures utensils, gas, water, electricity etc. and subsidy fund from welfare fund. Thus, canteen staff employed by such Local Implementation Committee and who works or discharge their function as per the direction of Local Implementation Committee cannot claim regularisation or their absorption against permanent post in the category of Group IV sub ordinate staff of the Bank. Consequently, those canteen staff cannot claim themselves to be in the service of the bank or claim their regularisation and absorption in the regular service of the bank in the category of group IV staff and this Tribunal finds no merit in the present reference. Accordingly, Reference Case no.09 of 2001 is dismissed and away to that effect is passed.

K. D. BHUTIA, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2023

**का.आ. 1609.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह – श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 06/2020) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल. 22012/109/2019-आई. आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 29th September, 2023

**S.O. 1609.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2020) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 21/09/2023.

[No. L-22012/109/2019 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

#### REFERENCE CASE NO. 06 OF 2020

**PARTIES:** Gopal Ray  
Vs.  
Management of Khas Kajora Colliery of ECL

#### REPRESENTATIVES:

For the Union/Workman: None.

For the Management: Mr. P. K. Das, learned advocate.

**INDUSTRY:** Coal.  
**STATE:** West Bengal.  
**Dated:** 28.06.2023

### AWARD

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/109/2019-IR(CM-II)** dated 04.02.2020 has been pleased to refer the following dispute between the employer, that is the Management of Khas Kajora Colliery under Kajora Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

### SCHEDULE

*“ Whether the action of the management of M/s. Eastern Coalfields Ltd. in relation to its Khas Kajora Colliery under Kajora Area in imposing a punishment of dismissal on Shri Gopal Ray, General Mazdoor of Khas Kajora Colliery w.e.f. 29-11-1999 vide order No. KA/PM/C-6/10/3356/7694 dated 29-11-1999 is just and legal? If not, to what relief the workman is entitled? ”*

1. On receiving Order **No. L-22012/109/2019-IR(CM-II)** dated 04.02.2020 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 06 of 2020** was registered on 24.02.2020 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.
2. Mr. P. K. Das, learned advocate for Eastern Coalfields Limited is present. The Management of Eastern Coalfields Limited has already filed as written statement in this case on 24.01.2023. On the direction of this Tribunal, Management produced a copy of the Form ‘B’ Register of Gopal Ray for his permanent address. Accordingly, a notice was issued at his address on 25.05.2023 directing him to appear before this Tribunal today (28.06.2023). On repeated calls at 1:20 PM none appears for Gopal Ray. Mr. S. K. Pandey, the union representative is also found absent.
3. After reasonable and ample opportunity given to the workman to contest this case, he has not turned up nor is he represented by any competent person to assist him. Under such circumstances it is presumed that the dismissed workman Gopal Ray is not inclined to proceed with this case any further. The Industrial Dispute is therefore disposed of in form of a **No Dispute Award**.

Hence,

### ORDERED

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2023

**का.आ. 1610.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 01/2022) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल. 22012/02/2022-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 29th September, 2023

**S.O. 1610.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2022) of the Central Government Industrial Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the Management of E.C.L. and their workmen, received by the Central Government on 21/09/2023

[No. L-22012/02/2022-IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE****BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT,  
ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

**REFERENCE CASE NO. 01 OF 2022**

**PARTIES:** Smt. Gunjara Bouri, wife of Late Srinivas Bouri  
**Vs.**  
Management of Dhemomain Colliery of ECL

**REPRESENTATIVES:**

For the Union/Workman: Bhajaram Bouri (son of Late Srinivas Bouri).

For the Management: Mr. P. K. Das, learned advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 28.06.2023

**AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/02/2022-IR(CM-II)** dated 13.01.2022 has been pleased to refer the following dispute between the employer, that is the Management of Dhemomain Colliery under Sodepur Area of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

**SCHEDULE**

*“ Whether the action of the management of Dhemomain Colliery under Sodepur Area of M/s. Eastern Coalfields Ltd. in regretting the claim for employment /MMCC to Smt. Gunjara Bouri, W/o Late Srinivas Bouri, Ex-Pump Khalasi of Dhemomain Colliery is just and legal? If not, to what relief the dependent wife is entitled to? ”*

1. On receiving Order **No. L-22012/02/2022-IR(CM-II)** dated 13.01.2022 from the Government of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 01 of 2022** was registered on 01.07.2022 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.
2. Mr. P. K. Das, learned advocate for Management of Eastern Coalfields Limited is present. The case is fixed up today for evidence of workman witness. On call, Bhajaram Bouri, son of Late Srinivas Bouri appeared before the Tribunal and submitted that his mother, Smt. Gunjara Bouri has expired. None appeared to assist the dependent of deceased workman.
3. Written statement has been filed by Bhajaram Bouri on 31.10.2022 enclosing a copy of the Death Certificate of his mother. The Management filed their written statement on 18.01.2023.
4. The subject matter of the Industrial Dispute is regarding not providing employment to Smt. Gunjara Bouri, wife of the deceased workman Srinivas Bouri. Since Smt. Gunjara Bouri has expired and the same is supported by a copy of her Death Certificate, I am of the considered view that nothing remains for further consideration. Under the facts and circumstances, the Industrial Dispute is dismissed.

Hence,

**ORDERED**

that the Reference case is dismissed. An award be drawn up in the light of the above finding. Let copies of the Award in duplicate be communicated to the Ministry of Labour and Employment, Government of India for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer



नई दिल्ली , 29 सितम्बर, 2023

**का.आ. 1611.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण – सह – श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 23/2021) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/56/2021-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 29th September, 2023

**S.O. 1611.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No. 23/2021**) of the **Central Government Industrial Tribunal-cum-Labour Court, Asansol** as shown in the Annexure, in the industrial dispute between the Management of **E.C.L.** and their workmen, received by the Central Government on **21/09/2023**.

[No. L-22012/56/2021 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### **ANNEXURE**

#### **BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL -CUM- LABOUR COURT, ASANSOL.**

**PRESENT:** Shri Ananda Kumar Mukherjee,  
Presiding Officer,  
C.G.I.T-cum-L.C., Asansol.

#### **REFERENCE CASE NO. 23 OF 2021**

**PARTIES:** Dilip Bouri

**Vs.**

Management of Khas Kajora Colliery of ECL

#### **REPRESENTATIVES:**

For the Union/Workman: Mr. Bipul Banerjee, learned advocate.

For the Management: Mr. P. K. Goswami, learned advocate.

**INDUSTRY:** Coal.

**STATE:** West Bengal.

**Dated:** 27.06.2023

#### **AWARD**

In exercise of powers conferred under clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Government of India through the Ministry of Labour, vide its Order **No. L-22012/56/2021-IR(CM-II)** dated 30.11.2021 has been pleased to refer the following dispute between the employer, that is the Management of Khas Kajora Colliery of Eastern Coalfields Limited and their workman for adjudication by this Tribunal.

#### **SCHEDULE**

*“ Whether the action of the management of Khas Kajora Colliery of M/s. E.C.Ltd. in non-reinstatement in service of Dilip Bouri, U.G. General Mazdoor is justified or not? If not, what relief the workman is entitled to? ”*

1. On receiving Order **No. L-22012/56/2021-IR(CM-II)** dated 30.11.2021 from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a **Reference case No. 23 of 2021** was registered on 01.07.2022 and an order was passed issuing notice to the parties through registered post, directing them to appear and submit their written statements along with relevant documents in support of their claims and a list of witnesses.

2. Mr. P. K. Das, learned advocate appeared for the Management of Eastern Coalfields Limited. It appears from the record that the Management has already filed written statement on 09.01.2023. The case was fixed up on 23.06.2023 for appearance of the workman, Dilip Bouri and for filing written statement. On repeated calls on 23.06.2023 at 02:10 PM, Dilip Bouri and Mr. Bipul Banerjee, learned advocate were not found available. Since registration of this case on 01.07.2022 sufficient opportunities were given to the workman to represent the case but no step has been taken.

3. The case was registered and Notice were issued to parties. The workman has not turned up after Notice. Therefore, I am of the view that Dilip Bouri is not inclined to proceed with this case, hence, the Industrial Dispute is disposed of in the form of a **No Dispute Award**.

Hence,

### **ORDERED**

that a **No Dispute Award** be drawn up in respect of the above Reference. Let copies of the Award in duplicate be sent to the Ministry of Labour and Employment, Government of India, New Delhi for information and Notification.

ANANDA KUMAR MUKHERJEE, Presiding Officer

नई दिल्ली, 29 सितम्बर, 2023

**का.आ. 1612.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी बी एम बी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 25/2019)** को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/09/2023 को प्राप्त हुआ था।

[सं. एल-22012/56/2021-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 29th September, 2023

**S.O. 1612.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No.25/2019**) of **the Central Government Industrial Tribunal-cum-Labour Court NO. 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on **26/09/2023**.

[No. L-22012/56/2021 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

### **ANNEXURE**

#### **IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT II, CHANDIGARH.**

**Present: Sh. J.K. Tripathi, Presiding Officer-cum-Link Officer.**

ID No.25/2019

Registered on:-04.04.2019

Sh. Prem Kumar S/o Sh. Mahant Ram, R/o Village & Post Office Badehar, Tehsil & District Hamirpur-Himachal Pradesh.

.....Workman

Versus



1. The Chairman, Bhakra Beas Management Board, Madhya Marg, Sector 19-B, Chandigarh-160019.
2. The Chief Engineer, Bhakra Beas Management Board, BSL Project, Sundernagar-175038.

.....Respondents/Managements

### AWARD

Passed on:-27.04.2023

Central Government vide Notification No.L-23012/56/2017-IR(CM-II), Dated 13.03.2019, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

**“Whether demand of Shri Prem Kumar S/o Shri Mahant Ram for reinstatement in the management of BBMB is legal, just and valid? If yes, then, to what relief the concerned workman is entitled to and from which date?”**

1. The brief facts relevant for deciding this claim petition is that as per claim of workman, the workman was engaged on 28.06.1973 for the construction of BSL Project Sundernagar in Mandi District of Himachal Pradesh. The said project remained initially under the management of Beas Control Board which was established on 10.02.1961 and after Punjab Re-Organisation Act 1966, it was renamed Beas Construction Board and also Bhakra Management Board w.e.f. 01.10.1967 and later on it was renamed as Bhakra Beas Management Board(BBMB) which is working as such w.e.f. 15.05.1976 till date. The management made illegal retrenchment of its employees in phases and the workman was also retrenched/discharged on 13.02.1978 from regulation division of the management wrongly and illegally by the management. The workman was having token no.680-I holding the post of Beldar at the time of discharge. The workman worked continuously from the date of his initial appointment as work charge till his retrenchment and has completed more than 240 days in each calendar year and the retrenchment of the workman is wrong and illegal and in violation of Section 25-F, 25-H, Rule 77 and 78 of the Industrial Disputes (Central) Rules 1957 and in violation of Section 25-N of the ID Act, 1947. The management appointed fresh workmen/employees secretly after the retrenchment of the workman but preference was not given to the workman which is clear violation of Section 25-H of the ID Act, 1947. This action of the management also violates the directions of the Hon'ble Supreme Court as mentioned in Para 40 of the case of Jaswant Singh and others VS. Union of India and others, AIR 1980 Supreme Court page 115. No notice as per Rule 78 of the Industrial Disputes (Central) Rules 1957 which is statutory requirement has been issued to the workman. The workman is not gainfully employed anywhere after his illegal termination by the management and have no income from any source and even faced food scarcity. It is therefore, respectfully prayed that the retrenchment/discharge dated 13.02.1978 of the workman from service by the management may be declared illegal, unconditional and arbitrary and in violation of the various mandatory provisions of the Industrial Disputes Act, 1947 and the workman may be deemed to be considered in continuous service up to the ear April 2012 along with all consequential benefits.

2. The management has filed written statement, alleging therein that the the workman had slept over the matter for more than 32 long years and raised the present dispute at a belated stage without furnishing any plausible reason for extraordinary delay. The present dispute suffers from the vice of delay and latches and is hopelessly time barred. There was no master and servant relation between the management of Bhakra Beas Management Board (BBMB) and the workman. The workman is the Ex-workcharge employee of the Beas Construction Board (for short BCB) which was constituted under Section 80(1) of the Punjab Re-Organisation Act, 1966. The workman was retrenched after completion/part completion of the works of BCB in accordance with the provisions of the Industrial Disputes Act, 1947 and settlement in this behalf. The workman was paid all the terminal benefits i.e. retrenchment compensation, gratuity and ex-gratia etc. on account of his retrenchment from Beas Construction Board as per provision of ID Act and other relevant laws. The ex-work charged employees of the BCB had filed a writ petition under Article 32 of the Constitution of India before the Hon'ble Supreme Court of India titled as Jaswant Singh and others VS. Union of India and others, AIR 1980 Supreme Court page 115, in which they prayed for absorbing them in Bhakra Beas Management Board (BBMB) was not granted but instead their retrenchment from the BCB was upheld by the Apex Court. The BCB and BBMB are two distinct and separate legal entities/industrial establishments under the provision of Punjab Re-Organisation Act, 1966 as well as Industrial Disputes Act, 1947. The construction of Beas Project was undertaken by the Irrigation Department of Punjab Government prior to the Re-organisation of the erstwhile State of Punjab on 01.11.1966. Consequent to Re-Organisation, the work of the construction of the Beas Sutlej Link Project was taken over by the Central Government on behalf of the partner State of Punjab, Haryana and Rajasthan etc. The Central Government for discharging its responsibility of construction and completion of the Project, constituted Beas Construction Board (BCB) under Sub-Section (2) of Section 80 of the Re-Organisation Act. As per sub-section (5) of Section 80 of the Act, when any competent of the Beas Project in relation to which the construction was completed before the appointed day, was to be transferred by the Central Government to the Bhakra Management Board constituted under Section 79(1) of the aforesaid Act which was to be renamed as Bhakra Beas

Management Board. Section 25-H and 25-G of the ID Act are not applicable in the present case. In view of the submission made hereinabove, the claim of the workman is devoid of merit and the same may be dismissed.

3. On 27.04.2023 Sh. S.C. Gupta, Learned AR of the workman has submitted that the workman Prem Kumar has died. None has to come to prosecute the case. Since none is appearing on behalf of the LR of the late workman, which shows that the LR of the late workman is not interested in adjudication of the matter on merit.

4. Since the LR of the late workman has neither put their appearance nor they have filed any replication to prove their cause against the respondents/managements, as such, this Tribunal is left with no choice, except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present reference.

5. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

J. K. TRIPATHI, Presiding Officer -cum-Link Officer

नई दिल्ली, 29 सितम्बर, 2023

**का.आ. 1613.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 15/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/09/2023 को प्राप्त हुआ था।

[सं. एल-22013/01/2023-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 29th September, 2023

**S.O. 1613.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No.15/2012**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 1, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporations of India** and their workmen, received by the Central Government on **26/09/2023**.

[No. L-22013/01/2023 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.

**Present: Sh. J.K. Tripathi, Presiding Officer.**

ID No.15/2012

Registered On:-11.09.2012

Gulzar Singh S/o Sh. Banta Singh, R/o VPO Chari, The. Khamano, Distt. Fatehgarh Sahib(Pb.).

Workman

#### Versus

1. The Managing Director, Food Corporation of India, Head Quarter, 16-20, Barakamba Lane, New Delhi.
2. General Manager, FCI, Regional Office, Punjab, Near Tribune Chowk, Chandigarh.
3. Senior Manager, FCI, Regional Office, Punjab, Near Tribune Chowk, Chandigarh
4. The Distt. Manager, FCI Basant Road, Gurdev Nagar, Ludhiana.

Respondents/Managements

**AWARD****Passed On:-19.05.2023**

1. The workman Gulzar Singh has directly filed statement of claim under Section 2-A of the Industrial Disputes Act, 1947(hereinafter called the Act), with a prayer that the management may be directed to reinstate the workman with full back wages and continuity of service.
2. The brief facts relevant for deciding this claim petition as per the claim of the workman is that the workman was joined FCI on the post of Class IV. The workman w.e.f. 29.11.2007 as Assistant I-Grade-II was terminated from service/compulsorily retired w.e.f. 29.11.2007. The workman worked continuously without any break. His last drawn monthly wages were Rs.21,960/- per month. The workman was a sincere and hard working person. The enquiry held by the respondent-management against the workman was not just, fair and proper. The workman was not allowed an assistance of defence assistant. The enquiry was held against the rules of natural justice. The workman filed a review petition before the competent authority of FCI but the same was not properly considered. The workman has been victimized by the conspiracy made his superiors and has also imposed double penalty on the workman. The workman was not given proper opportunity to defend himself as per rules and regulations of the Corporation which is a violation of rules of natural justice. The punishing authority has not considered whether the workman was holding the independent incharge of Food Grains and holding charge of dead stock articles or during the relevant period the workman was permanently posted at Rail Head Khanna. The impugned order has been passed on the basis of enquiry conducted by a retired officer is not lawful in character of the impugned penalty in order rejecting the appeal dated 2.6.2008 are not legally sustainable. The workman is unemployed since the date of his termination. It is therefore, prayed that this Hon'ble Court may be pleased to pass an award in favour of workman and against the management holding that the termination of workman is illegal and unjustified and directing the management to reinstate the workman with full back wages and continuity of service.
3. Management filed written statement, alleging therein that the workman was ordered to be compulsorily retired from services on 29.11.2007 by way of punishment in a disciplinary proceedings initiated against the workman as the workman was charge-sheeted for his various acts of negligence, omission and commission committed by the workman in the performance of his duties. The workman has approached to the Assistant Labour Commissioner(Central) on 29.11.2011 i.e. after the lapse of three years which is not maintainable. As per Section 2-A(3) of the amended provision of the ID Act, an application can be made before the expiry of three years from the date of discharge. In the present case, the workman was ordered to be compulsorily retired from service on 29.11.2007 and the application has been filed on 29.11.2011 before the Assistant Labour Commissioner and the present application has been filed on 7.9.2012. A charge-sheet was issued to the workman clearly intimating the charges and other misconduct committed by the workman during service. The workman was given full opportunity to defend himself. The workman was associated with the departmental enquiry even the workman was given opportunity to cross-examine the witnesses. The workman is responsible for his acts and deeds which he has done during service. The workman has accepted the fact of compulsory retirement as imposed by way of punishment on account of the acts of willful omission, commission and negligence causing loss to property belonging to the corporation. The workman was proceeded with departmental enquiry and after affording full opportunity of defence the disciplinary authority has passed the order of punishment as the charges were proved during the enquiry. Before passing the final order, all the rules of natural justice were complied with at every stage and the workman was given full opportunity to defend himself. It is therefore, most respectfully prayed that there is no merit in the present case and the same be dismissed.
4. The workman filed rejoinder against the written statement filed by the management, alleging therein that the respondent/management had resorted to unfair labour practice. The demand notice is not belated. The enquiry held was not just, fair and proper. The rules of natural justice were violated. When the workman did not hear from the Managing Director, FCI about his review petition, the workman filed the present case. The workman performed his duties as per law. The respondent has levied two punishment one of compulsory retirement and other of forfeiture of his retiral benefits. The workman has been victimized in an illegal, unjust and arbitrary manner. Therefore, it is prayed that the workman be reinstated retrospectively with full back wages and with other benefits as per law by setting aside the illegal and harsh punishment inflicted on the workman.
5. During the pendency of the proceedings before this Tribunal at the stage of cross-examination of the workman on 27.05.2019 it is informed by the AR of the workman that the workman Gulzar Singh is died. Till today, the case is pending for filing amended claim petition but none is responding on behalf of legal heir/s of the deceased workman Gulzar Singh, which shows that the legal heir/s of the deceased workman Gulzar Singh is/are not interested in adjudication of the case on merit. Since several opportunities have already given to the legal heir/s of the deceased workman Gulzar Singh but none appeared on behalf of the legal heir/s of the

deceased workman Gulzar Singh this Tribunal is left with no alternative except to pass a 'No Claim Award'. Accordingly, 'No Claim Award' is passed in the present claim petition. File after completion be consigned in the record room.

6. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

J.K. TRIPATHI, Presiding Officer

नई दिल्ली, 3 अक्टूबर, 2023

**का.आ. 1614.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ** के पंचाट (पहचान संख्या **46/2014**) को प्रकाशित करती है, जो केन्द्रीय सरकार को **13/09/2023** को प्राप्त हुआ था।

[सं. एल-22011/20/2014-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 3rd October, 2023

**S.O. 1614.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 46/2014**) of **the Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on **13/09/2023**.

[No. L-22011/20/2014 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW

#### PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 46/2014

Ref. No. No. L-22011/20/2014- (IR(CM-II) dt. 01.07.2014

#### BETWEEN

Shubhash Chandra R/o Mohalla- Chah Icharam,

Near Sanatan Dharam Sabha District- Rampur

PIN-244901

..... Workman

#### AND

1. Executive Director, (North Centre)

Food Corporation of India, Vibhuti

Khand, Gomti Nagar, Lucknow

2. General Manager, U.P.

Food Corporation of India

TC/3V, Vibhuti Khand,

Gomti Nagar, Lucknow

..... Respondent

**AWARD**

Heard Sri S.K. Shukla counsel for workman and Sri A.P. Singh for respondent.

By an order dated 01.07.2014 the appropriate authority as referred the following reference to this Tribunal for adjudication.

*“क्या प्रबंधन, भारतीय खाद्य निगम द्वारा वरिष्ठता सूची के आधार पर श्री सुभाष चन्द्र, ए.जी.-I को मैनेजर के पद पर उससे जूनियर्स को दिनांक 30.07.2008 के द्वारा दी गयी पदोन्नति लाभ न दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”*

Accordingly ID case 46/2014 registered before this Tribunal.

**Case of claimant**

Sri S.K. Shukla Learned Counsel for workman in brief submits as under:-

On 11.01.2016 claimant filed the claim petition in brief the case taken him that he joined the services of Food Corporation of India (in short hereinafter referred as ‘FCI’) on 05.04.1972, as AG III and rendered his services to the corporation with utmost good faith.

Applicant performed his duties in different district as per the requirement of smooth functioning of the corporation. It is pertinent to mention here that the services of applicant were up to the mark as required by the corporation and no complaint was received by the corporation in respect of applicant.

Applicant retired from services of ‘FCI’ w.e.f. 30.06.2009, from the post of AG I (PP), at the time of superannuation the applicant was posted at FSD/FCI Dhamoura, District Rampur (U.P.)

During tenure of his service applicant was promoted on the post of AG II (PP) from AG III (PP) on 30/31.12.1980. It was also pertinent to mention here that applicant’s promotion was due for next promotional post i.e. AG I (PP) in the year 2000, but the same was denied on the pretext of pending vigilance case against the applicant, without considering the fact that on that point of time applicant was not given any punishment therefore, he could not be debarred from his right of promotion. Moreover, applicant was given promotion on said post in the year 2006 i.e. 20.11.2006.

Further the next promotion for the post of Manager from the post of AG I (PP) was due to the applicant in year 2001 as per the seniority roll dated 31.12.2001, in that, applicant’s name was shown at serial No. 1305.

But in year 2008 vide office memorandum bearing No. E-1/2(4)/N (Depot) 2008/NZ dated 30.07.2008, promotion list for the post of Manager has been issued, in which junior to appellant were given promotion on the next higher post i.e. on the post of Manager, ignoring him.

Further in year 2001 a seniority list of AG-I(PP) dated 31.12.2001 was issued in which the name of appellant found place at serial No. 1305 further in year 2006 again seniority list of AG-I was issued but arbitrarily and reason best to known by authority concerned the name of the applicant found place at Serial No. 1899.

Moreover as per seniority list dated 31.12.2006, the applicant’s name was shown at serial No. 1899(A) without assigning any reason and the applicant was placed below more than 500 steps down on comparing with the seniority list dated 31.12.2001.

Applicant had made several applications either by registered post or by speed or Fax and also several reminders had been sent by the applicant in this regard to the higher authority of the respondent corporation, to remove this anomalies and to grant promotion according to the law by giving right place in the seniority list issued in the year 31.12.2001, but no heed was paid by them.

In view of the above said facts that applicant has prayed the following relief:-

In view of aforesaid facts, the Hon’ble Tribunal may kindly be pleased to allow the case granting promotion to the workman with antedate seniority w.e.f. 31.12.2001, when junior to the applicant promoted on the post of Manager and workman be also given the consequential serviced and monetary benefits.

**Case of Respondent**

Sri Ashish Srivastava learned counsel for the respondents submits till date on behalf of claimant neither rejoinder affidavit nor any evidence in support of his case has been filed so in spite of opportunity has been given to him so present case is liable to be dismissed on the ground, appellant failed to prove his case.

**Finding & Conclusion.**

I have heard learned counsel for the parties and gone through the record.

When the matter was taken up for hearing Sri S.K. Shukla learned counsel appearing on behalf of claimant informed the Tribunal that Sri claimant has died he sent information initially to the claimant to file rejoinder affidavit before his death to his legal heirs, however no response was received by him.

Taken into consideration the said facts as well as the provision as provided under Sub-Section 8 of Section 10 of the Industrial Dispute Act, 1947, is quoted herein below:-

(8) *“No proceedings pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceedings and submit its award to the appropriate Government”.*

So I proceeded to decide the matter on merit.

Taking into consideration the above said fact and from the perusal of record the position is emerge out that for the first time was granted to the claimant to file rejoinder affidavit on 08.03.2021 and thereafter several opportunities was granted, lastly by an order dated 28.12.2022, last opportunity granted to the claimant to file rejoinder affidavit failing which the matter shall be preceded for ex-parte hearing.

Thus, admittedly till date neither any rejoinder nor any evidence has been filed by claimant in order to establish in his claim as per the reference dated 01.07.2014.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

*“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief.”*

In the case of **M/s UptronPowertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

*“The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”*

And by the Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

*“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed.”*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and workman/Sri Shubhash Chandra (now deceased) is not entitled for any relief.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

03.07. 2023



नई दिल्ली, 3 अक्टूबर, 2023

**का.आ. 1615.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (पहचान संख्या 24/2019) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22011/20/2017-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 3rd October, 2023

**S.O. 1615.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 24/2019**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 13/09/2023.

[No. L-22011/20/2017 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW****PRESENT**

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 24/2019

Ref. No. L-22011/20/2017-IR CM-II) dated 12.11.2018

**BETWEEN**

संयुक्त सचिव, भारतीय खाद्य निगम मजदूर संघ, कैम्प कार्यालय

12/58, शहीद नगर, पुराना किला, लखनऊ - 226001

**AND**

1. क्षेत्र प्रबंधक, भारतीय खाद्य निगम 07-आर, डालीबाग लखनऊ-226001
2. महा प्रबन्धक उ० प्र०, भारतीय खाद्य निगम, टी० सी० / ०३ बी, विभूति खण्ड, गोमती नगर लखनऊ - 226001
3. प्रबन्ध निदेशक, भारतीय खाद्य निगम अंसल भवन कस्तूरबा गाँधी मार्ग, नई दिल्ली-110001
4. प्रबन्ध निदेशक, भारतीय खाद्य निगम प्लॉट नं० 2 ए, 2 बी सेक्शन - २४ गौतम बुद्ध नगर नोयडा - 201307

**AWARD**

By order No. L-22011/20/2017-IR CM-II) dated 12.11.2018 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

*"क्या प्रबंधन, भारतीय खाद्य निगम, नई दिल्ली व अन्य द्वारा भा० खा० नि०, भण्डारण डिपों, तालकटोरा, लखनऊ के श्रमिकों को अगस्त 2016 से 35% इन्सेंटिव कम भुगतान करना न्यायोचित एवं वैध है ? यदि नहीं तो कामगार किस राहत को पाने के हकदार है ?"*

Accordingly, an industrial dispute No. 24/2019 has been registered on 16.08.2019

From the perusal of record, the position which emerge out that till date the claimant/workman has not filed any statement of claim.

Moreover, as a matter of fact and record, neither workman nor its authorized representative has turned up before this Tribunal nor has filed any statement of claim in spite of repeated notices.

### **Findings & Conclusion:**

Taking into consideration the fact that as till date no statement of claim has been filed by the claimant in order to establish his claim as per the reference dated 12.11.2018.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

*"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of **M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

*"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

*"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and; and the workman is not entitled for any relief.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

31<sup>st</sup> August, 2023

नई दिल्ली, 3 अक्टूबर, 2023

**का.आ. 1616.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (पहचान संख्या 48/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22011/22/2014-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 3rd October, 2023

**S.O. 1616.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 48/2016**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 13/09/2023.

[No. L-22011/22/2014 – IR (CM-II)]

MANIKANDAN. N, Dy. Director



**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW****PRESENT**

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 48/2016

Ref. No. No. L-22011/22/2014- (IR(CM-II) dt. 08.07.2014

**BETWEEN**

Shubhash Chandra R/o Mohalla- Chah Icharam,

Near Sanatan Dharam Sabha District- Rampur

PIN-244901

..... Workman

**AND**

1. Executive Director, (North Centre)  
Food Corporation of India, Vibhuti  
Khand, Gomti Nagar, Lucknow

2. General Manager, U.P.  
Food Corporation of India  
TC/3V, Vibhuti Khand,  
Gomti Nagar, Lucknow

..... Respondent

**AWARD**

Heard Sri S.K. Shukla counsel for workman and Sri Ashish Srivastava for respondent.

By an order dated 08.07.2014 the appropriate authority as referred the following reference to be adjudicated by this Tribunal.

*“क्या प्रबंधन, भारतीय खाद्य निगम द्वारा श्री सुभाष चन्द्र ए.जी.—III को दिये गये दण्डादेश दिनांक 26.11.2009 व दिनांक 07.07.2010 न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”*

Accordingly ID case 48/2014 registered before this Tribunal.

**Case of Claimant**

Sri S.K. Shukla learned counsel for workman in brief submits as under:-

On 11.01.2016 claimant Shubhash Chandra filed the claim petition in brief the facts were taken him are that applicant had joined the services of Food Corporation of India ( in short hereinafter referred as ‘FCI’) on 05.04.1972, as AG III and rendered his service to the corporation with utmost good faith.

Applicant performed his duties in different district as per term and condition as per the claimant of his seniors without any complaint there was no complaint against him from the authorities corporation in respect to service performed by him.

Applicant retired from services of ‘FCI’ w.e.f. 30.06.2009, from the post of AG I, (PP), at the time of superannuation applicant was posted at FSD/FCI Dhamoura, district Rampur (U.P.)

During tenure of his service show Cause notice dated 15/21.12.2006, was received to what alleging that while he was posted and functioning at FSD Rampur, during year 1993 failed to perform his signed duties, as a consignment of rice, dispatched Ex-FSD Rampur to Agra Cantt, on 24 February 1994, was found beyond rejection limit owing to excessive percentage of broken grains.

As issue was very old so claimant request by letter dated 18.01.2007, to General Manager FCI Lucknow to provide some relevant documents (13 different relevant documents), and also requested to quash the show cause notice dated 15/21.12.2006.

However in spite of report demanded relevant document respondent corporation issued a memorandum dated 27.11.2008, along with statement of imputation of misconduct which is nothing but in sheer, illegal and arbitrary manner which action on the preliminary of report, was received by applicant on 08.12.2008.

Feeling aggrieved by the memorandum dated 27.11.2008, received on 20.12.2008, appellant again requested to provide document and also permit him to inspect the same in order to submit his reply but instead of providing the said documents only he was allowed to inspect only three documents, and for rest documents it was told that same are untraceable.

In spite of said conduct/action on the part of concerned authority, in compelling circumstances applicant submitted his reply/explanation dated 27.12.2008 to the memorandum, denying the charge leveled against him and also making request to exonerate him from said charge, in his reply applicant pointed out 10 point in his defense and also annexed relevant document support of his case/defense.

However without considering and appreciating the reply of applicant and also without applying the judicial mind, authority concerned passed non-speaking and unreasoned order dated 24/26 Nov. 2009, whereby penalty of recovery of Rs. 35002/- leveled against applicant is illegal and arbitrary manner, the same was also recovered from post retiral benefits.

Feeling aggrieved by foresaid order dated 24/26 Nov. 2009 applicant filed an appeal dated 10.01.2010, making request to exonerate to him and to expunge punishment of recovery Rs. 35002/- but appeal was rejected in sheer and illegal manner without appreciating the submission of the applicant in a mechanical manner by order dated 07.07.2010.

Thereafter applicant preferred an application under Right to Information Act 2005, seeking copy of some relied upon/relevant documents of the case as well as relevant information of the case but no satisfactory reply has been given

Against impugned order dated 24/26 Nov. 2001 of the authorities filed a review application dated 19.10.2010, before Managing Director, FCI HQ New Delhi, but till date the same has not been decided till filing of the present case.

Accordingly it is submitted by learned counsel for respondent that for redressal of his grievances in view of the above said facts. Workman filed the present claim petition with the following relief:-

- (i) To set aside the recovery order dated 24/26.11.2009 and appellate order dated 07.07.2010.
- (ii) To direct authority concern to refund the amount of Rs. Rs. 35002/- as deducted from the terminal benefit of the applicant.
- (iii) To direct authority concern to pay interest @ 18% per annum on aforesaid amounts till the actual payment.

### **Case of Respondent**

Sri Ashish Srivastava learned counsel for the respondents submits as under-

On 01.12.2016 on behalf of the respondent a written statement has been filed, denying the contents of the paragraphs which were pleaded by the claimant in his written statement and it was also pleaded on behalf of the respondent and thereafter taking into consideration the material of fact the order was passed for recovery of sum of Rs. 35,200/- which was perfectly valid in accordance with law. So applicant/workman is not entitled for any relief so the case filed by him is liable to be dismissed.

### **Finding and Conclusion**

I have heard learned counsel for the parties and gone through the record.

When the matter was taken up for hearing Sri S.K. Shukla learned counsel appearing on behalf of claimant informed the Tribunal that Sri claimant has died he sent information initially to the claimant to file rejoinder affidavit before his death to his legal heirs, however no response was received by him.

Taken into consideration the said facts as well as the provision as provided under Sub-Section 8 of Section 10 of the Industrial Dispute Act, 1947, is quoted herein below:-

(8) *“No proceedings pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceedings and submit its award to the appropriate Government”*

So I proceeded to decide the matter on merit.

Thus, taking into consideration the facts on record admittedly till date nether any rejoinder nor any evidence has been filed by the claimant in order to establish in his claim as per the reference dated 08.07.2014

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

*"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of **M/s Uptron Powertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

*"The law has been settled by the Apex Court in case of Shanker Chakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

*"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and workman/Sri Shubhash Chandra (now deceased) is not entitled for any relief.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

30.06.2023

नई दिल्ली, 3 अक्टूबर, 2023

**का.आ. 1617.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (पहचान संख्या 47/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल. 22011/21/2014-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 3rd October, 2023

**S.O. 1617.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 47/2014**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 13/09/2023.

[No. L-22011/21/2014 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW****PRESENT**

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 47/2014

Ref. No. No. L-22011/21/2014- (IR(CM-II) dt. 08.07.2014

**BETWEEN**

Shubhash Chandra R/o Mohalla- Chah Icharam,

Near Sanatan Dharam Sabha District- Rampur

PIN-244901

..... **Workman****AND**

1. Executive Director, (North Centre)

Food Corporation of India, Vibhuti

Khand, Gomti Nagar, Lucknow

2. General Manager, U.P.

Food Corporation of India

TC/3V, Vibhuti Khand,

Gomti Nagar, Lucknow

..... **Respondent****AWARD**

Heard Sri S.K. Shukla counsel for workman and Sri A.P. Singh for respondent.

By means of the letter dated 08.07.2014 passed by the the appropriate Government the following reference as made

“क्या प्रबंधन, भारतीय खाद्य निगम द्वारा श्री सुभाष चन्द्र, ए.जी.-I को दिये गये दण्डादेश दिनांक 07.12.2004 रद्द कराने उससे रुपये 55000.00 की वसूली 36 इनस्टालमेंट में कर ली गयी एवं वर्ष 2001 की वेतन बढ़ोत्तरी जो एक वर्ष के लिए रोकी गयी का एरियर भी भुगतान न करना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

Accordingly ID case No. 47/2014 registered before this Tribunal.

**Case of Claimant**

Sri S.K. Shukla Learned Counsel for workman in brief submits as under:-

On 11.01.2016 claimant filed the claim petition, the facts as stated therein in brief are as under:-

1. Applicant had joined the services of Food Corporation of India (in short hereinafter referred as ‘FCI’) on 05.04.1972, as AG III and rendered his services to the corporation with utmost good faith. The applicant also performed his duties in different district as per the requirement of smooth function of the corporation It is pertinent to mention here that the services of the applicant were up to the mark as required by the corporation and no complaint was received by the corporation in respect of applicant. The applicant has been retired from service of ‘FCI’ w.e.f. 30.06.2009, from the post of AG I (PP), at the time of superannuation the applicant was posted at FSD/FCI) Dhamoura, District Rampur (U.P.)

2. In year 1998, a show cause notice dated 17.07.1998, received on 27.07.1998, was issued against the applicant to explain as to how he allowed dispatches of inferior quality of rice in year 1990, without specifically mention and date of dispatch.

3. Aggrieved by aforesaid show cause notice the applicant preferred a letter dated 04.01.1999, to the authority concerned to provide some relevant documents to give proper explanation, since the show cause notice was issued after lapse of 8 years. It will not be out of place to mention here that by above letter date 04.01.1999, the applicant requested to the authority concerned to provide 16 specific relied upon documents to the applicant.

4. That despite authority concerned had permitted to provide relied upon documents but only six documents were provided to the applicant instead of 16 documents as asked by the applicant vide letter dated 04.01.1999. Further in one hand authority concern was asking explanation to the show cause notice but in other hand they were not provided the remaining relied upon documents despite applicant was repeatedly demanded the foresaid relied upon documents but no provided to the applicant reason best know to the authority.

5. In the above compelling circumstances, applicant preferred his explanation/reply to show cause notice dated in absence of relied upon documents on 20.04.1999, making request to discharge him from the matter and he also explained to the authority concern, that at that point of time applicant was not discharging the duties at Railway Head Rampur.

6. However without considering the request of applicant authority concerned had issued a memorandum dated 04.07.2000, for two different year i.e. 1987 and for year 1990 in sheer illegal and arbitrary manner. It will not be out of place to mention here that issuing a common memorandum after lapse of long time of 13 & 10 years respectively is violative of natural justice.

7. Aggrieved by aforesaid act and memorandum the applicant has preferred a detailed reply to the aforesaid memorandum explaining that on 07.11.1986 to 23.04.1987 applicant was posted at Jaspur and not performing his duties at Rampur. Not only the above the applicant also explained that in the month of January and February of 1990, applicant was posted at Central Warehouse Corporation Rampur therefore, he could not be held liable to loading inferior quality of rice. As he was not discharging the duty on Railway mall Godam at Rampur.

8. However without considering/appreciating the reply of applicant and also without applying the judicial mind the authority concerned passed an unspeaking and unreasoned order dated 21/22 September 2001, whereby, applicant had been awarded penalty of reduction to 1 stage in present time scale of pay for a period of one year along with recovery of Rs. 55,000/- in 36 equal installments with immediate effect.

9. Aggrieved by above order dated 21/22 September 2001, applicant filed an appeal dated 05.12.2001, making request to exonerate to the aforesaid matter and order of the disciplinary authority may be rejected in want of justice. But appeal has also been rejected in sheer and illegal manner without appreciating the submission of the applicant in a mechanical manner by order dated 07.12.2004 received on 19.01.2005.

Thus, it is submitted by learned counsel for respondent that for redressal of his grievances in view of the above said facts. Workman filed the present claim petition with the following relief:-

- (i) To set aside order dated 21/22 September 2001 and order dated 07.12.2004.
- (ii) To direct authority concern to refund the amount of Rs. Rs. 55,000/- as deducted from the salary of the petitioner in 36 installments.
- (iii) To direct authority concern to pay arrears of the salary as one increment for year 2001, has been stopped in furtherance of above impugned order,
- (iv) To direct authority concern to pay interest @ 18% per annum on aforesaid amounts.

### **Case of Respondent**

Sri Ashish Srivastava learned counsel for the respondents submits till date on behalf of claimant neither rejoinder affidavit nor any evidence in support of his case has been filed so in spite of opportunity has been given to him so present case is liable to be dismissed on the ground, appellant failed to prove his case.

### **Finding & Conclusion.**

I have heard learned counsel for the parties and gone through the record.

When the matter was taken up for hearing Sri S.K. Shukla learned counsel appearing on behalf of claimant informed the Tribunal that Sri claimant has died he sent information initially to the claimant to file rejoinder affidavit before his death to his legal heirs, however no response was received by him.

Taken into consideration the said facts as well as the provision as provided under Sub-Section 8 of Section 10 of the Industrial Dispute Act, 1947, is quoted herein below:-

*(8) "No proceedings pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceedings and submit its award to the appropriate Government".*

So I proceeded to decide the matter on merit.

Taking into consideration the above said fact and from the perusal of record the position is emerge out that for the first time was granted to the claimant to file rejoinder affidavit on 08.03.2021 and thereafter several opportunities was granted, lastly by an order dated 28.12.2022, last opportunity granted to the claimant to file rejoinder affidavit failing which the matter shall be preceded for ex-parte hearing.

Thus, admittedly till date neither any rejoinder nor any evidence has been filed by claimant in order to establish in his claim as per the reference dated 08.07.2014

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of **V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194** as under:

*"It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief."*

In the case of **M/s UptronPowertronics Employees' Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others 2008 (118) FLR 1164** Hon'ble Allahabad High Court has held as under:

*"The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led."*

And by the Hon'ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd. 2010 (126) FLR 519**; wherein it has been held as under:

*"The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed."*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and workman/Sri Shubhash Chandra (now deceased) is not entitled for any relief.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

03.07. 2023

नई दिल्ली, 3 अक्टूबर, 2023

**का.आ. 1618.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबद्ध नियोजको और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय**, लखनऊ के पंचाट (पहचान संख्या 56/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22011/44/2014-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 3rd October, 2023

**S.O. 1618.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 56/2014**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 13/09/2023

[No. L-22011/44/2014 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE**  
**CENTRAL GOVERNMENT INDUSTRIAL-CUM-LABOUR COURT, LUCKNOW**

**PRESENT**

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 56/2014

Ref. No. No. L-22011/44/2014- (IR(CM-II) dt. 12.09.2014

**BETWEEN**

Shubhash Chandra R/o Mohalla- Chah Icharam,  
Near Sanatan Dharam Sabha District- Rampur  
PIN-244901

..... Workman

**AND**

1. Executive Director, (North Centre)  
Food Corporation of India, Vibhuti  
Khand, Gomti Nagar, Lucknow

2. General Manager, U.P.  
Food Corporation of India  
TC/3V, Vibhuti Khand,  
Gomti Nagar, Lucknow

..... Respondent

**AWARD**

Heard Sri S.K. Shukla counsel for workman and Sri A.P. Singh for respondent.

By means of the letter dated 12.09.2014 the appropriate authority as referred the following reference to this Tribunal for adjudication.

*“क्या प्रबंधन, भारतीय खाद्य निगम द्वारा श्री सुभाष चन्द्र ए.जी.-I को दिये गये दण्डादेश दिनांक 04.08.2007 रद्द करने व अपील दिनांक 04.10.2007 को निस्तारण न किया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”*

In response to the said reference adjudication case No. 56/2014 registered before this Tribunal.

**Case of claimant**

Sri S.K. Shukla Learned Counsel for workman in brief submits as under:-

On 11.01.2016 claimant filed the claim petition and the facts which is stated therein in brief are as under:-

1. Applicant had joined the services of Food Corporation of India (in short hereinafter referred as 'FCI') on 05.04.1972, as AG III and rendered his services to the corporation with utmost good faith. The applicant also performed his duties in different district as per the requirement of smooth function of the corporation. It is pertinent to mention here that the services of the applicant were up to the mark as required by the corporation and no complaint was received by the corporation in respect of applicant. The applicant has been retired from service of 'FCI' w.e.f. 30.06.2009, from the post of AG I (PP), at the time of superannuation the applicant was posted at FSD/FCI Dhamoura, District Rampur (U.P.)
2. Further by letter dated 04/5 December 2001, a punishment order was issued against the applicant for quality complaint for receipt of rice stock in Midnapur during December 1983, without giving any show cause notice, office memorandum as well as opportunity of hearing in sheer, illegally and arbitrary manner. Moreover, by above order applicant was punished with the punishment of recovery of Rs. 7,767/- and said recovery amount was deducted from the salary of applicant in 10 equal installment without providing the opportunity of hearing in mechanical manner.
3. Feeling aggrieved by aforesaid order dated 04/05 December 2001, applicant filed an appeal dated 08.08.2003 making request to the authority concerned to set aside the order dated 04/05/ December 2001, and to refund recovered amount of Rs. 4,767/- in the interest of justice.
4. And after considering the submission made by the applicant in his appeal the appellate authority vide its order dated 28.02.2006, was pleased to set aside the order of recovery dated 04/05/ December 2001, and remanded back the case to disciplinary authority i.e. General Manager (U.P.) FCI R.O. Lucknow to decide the case of quality control after following the proper procedure as laid down in FCI (Staff) Regulation 1971.



5. In furtherance of appellate order dated 28.02.2006, the respondent corporation issued a memorandum dated 05.02.2007 by covering letter dated 21.02.2007, seeking explanation for the dispatch of rice Ex. Rampur to Midnapur, which took place during December 1983.
6. After receiving the aforesaid memorandum dated 05.02.2007 applicant requested to the authority concerned vide his letter dated 22.02.2007, 01.03.2007 and letter dated 06.03.2007, respectively, to provide some relied upon document for his comprehensive explanation but same were not provide despite specific order to provide relied upon document to the applicant was issued by the authority concern.
7. Aggrieved by the aforesaid memorandum and inaction of the authority concern by not providing the relied upon document the applicant had preferred his explanation/rely dated 08.03.2007, to the same in these compelling circumstances, explaining that he was not performing the duty of rail head in December 1983. As je was performing the duties of preservation of wheat/rice and other work of godown i.e. M.F. Buland Unit and Rail Head Rampur on the direction of A.M. (Q.C.) he also explained that he was engaged to look after office work in addition to duties given as above. Therefore, he could not be charged for any anomalies which taken place in dispatch of the rice Rampur to Midnapur during December 1983, as no documentary proof against the applicant were given in the support of alleged allegation.
8. But without considering and appreciating the reply of the applicant and also without applying the judicial mind the authority concerned passed an unspeaking and unreasoned order dated 04.08.2007, whereby, recovery of Rs. 4,767/- in 5 equal installments had been issued against the applicant in mechanical manner.
9. Aggrieved by aforesaid order dated 04.08.2007, applicant filed an appeal dated 04.10.2007, making request to exonerate to him and to expunge the given punishment of Recovery Rs. 4,767/- in the interest of justice. The said appeal has not been decided by the appellate authority till date, despite specific request to disposed off the same has been made by the applicant through his letter dated 22.09.2010, but no heed has been paid by the appellate authority till date on the specific request of the applicant.

Thus, it is submitted by learned counsel for respondent that for redressal of his grievances in view of the above said facts. Workman filed the present claim petition with the following relief:-

- (i) To set aside the recovery order dated 04.08.2007.
- (ii) To direct authority concern to refund the amount of Rs. Rs. 4, 767/- as deducted from the salary of the petitioner in 5 equal installments.
- (iii) To direct authority concern to pay interest @ 18% per annum on aforesaid amounts till the actual payment.

### **Case of Respondent**

Sri Ashish Srivastava learned counsel for the respondents submits till date on behalf of claimant neither rejoinder affidavit nor any evidence in support of his case has been filed so in spite of opportunity has been given to him so present case is liable to be dismissed on the ground, appellant failed to prove his case.

### **Finding & Conclusion.**

I have heard learned counsel for the parties and gone through the record.

When the matter was taken up for hearing Sri S.K. Shukla learned counsel appearing on behalf of claimant informed the Tribunal that Sri claimant has died he sent information initially to the claimant to file rejoinder affidavit before his death to his legal heirs, however no response was received by him.

Taken into consideration the said facts as well as the provision as provided under Sub-Section 8 of Section 10 of the Industrial Dispute Act, 1947, is quoted herein below:-

- (8) *"No proceedings pending before a Labour Court, Tribunal or National Tribunal in relation to an industrial dispute shall lapse merely by reason of the death of any of the parties to the dispute being a workman, and such Labour Court, Tribunal or National Tribunal shall complete such proceedings and submit its award to the appropriate Government".*

So I proceeded to decide the matter on merit.

Taking into consideration the above said fact and from the perusal of record the position is emerge out that for the first time was granted to the claimant to file rejoinder affidavit on 08.03.2021 and thereafter several opportunities was granted, lastly by an order dated 28.12.2022, last opportunity granted to the claimant to file rejoinder affidavit failing which the matter shall be preceded for ex-parte hearing.

Thus, admittedly till date neither any rejoinder nor any evidence has been filed by claimant in order to establish in his claim as per the reference dated 12.09.2014.

So in view of the said facts, as well as the law laid by the Hon'ble High Court in the case of ***V. K. Raj Industries v. Labour Court (I) and others 1981 (29) FLR 194*** as under:



*“It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is produced the party invoking jurisdiction of the Court must fail. Whenever a workman raises a dispute challenging the validity of the termination of service if is imperative for him to file written statement before the Industrial Court setting out grounds on which the order is challenged and he must also produce evidence to prove his case. If the workman fails to appear or to file written statement or produce evidence, the dispute referred by the State Government cannot be answered in favour of the workman and he would not be entitled to any relief.”*

In the case of **M/s UptronPowertronics Employees’ Union, Ghaziabad through its Secretary v. Presiding Officer, Labour Court (II), Ghaziabad and others** 2008 (118) FLR 1164 Hon’ble Allahabad High Court has held as under:

*“The law has been settled by the Apex Court in case of ShankerChakravarti v. Britannia Biscuit Co. Ltd., V.K. Raj Industries v. Labour Court and Ors., Airtech Private Limited v. State of U.P. and Ors. 1984 (49) FLR 38 and Meritech India Ltd. v. State of U.P. and Ors. 1996 FLR that in the absence of any evidence led by or on behalf of the workman the reference is bound to be answered by the court against the workman. In such a situation it is not necessary for the employers to lead any evidence at all. The obligation to lead evidence to establish an allegation made by a party is on the party making the allegation. The test would be, who would fail if no evidence is led.”*

And by the Hon’ble Allahabad High Court in the case of **District Administrative Committee, U.P. P.A.C.C.S.C. Services v. Secretary-cum-G.M. District Co-operative Bank Ltd.** 2010 (126) FLR 519; wherein it has been held as under:

*“The submission is that even if the petitioner failed to lead the evidence, burden was on the shoulders of the respondent to prove the termination order as illegal. He was required to lead evidence first which he failed. A perusal of the impugned award also does not show that any evidence either oral or documentary was led by the respondent. In the case of no evidence, the reference has to be dismissed.”*

As the workman has not filed any statement of claim/oral/documentary evidence, so the present case is liable to be dismissed.

For the foregoing reasons, the case is dismissed and workman/Sri Shubhash Chandra (now deceased) is not entitled for any relief.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

03.07. 2023

नई दिल्ली, 3 अक्टूबर, 2023

**का.आ. 1619.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य निगम के प्रबंधन के संबंध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण - सह - श्रम न्यायालय, लखनऊ के पंचाट (पहचान संख्या 11/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/09/2023 को प्राप्त हुआ था।

[सं. एल-22011/25/2015-आई. आर. (सी.एम-II)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 3rd October, 2023

**S.O. 1619.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**ID. No. 11/2016**) of the **Central Government Industrial Tribunal-cum-Labour Court, Lucknow** as shown in the Annexure, in the industrial dispute between the Management of **Food Corporation of India** and their workmen, received by the Central Government on 13/09/2023.

[No. L-22011/25/2015 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

**ANNEXURE****CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT, LUCKNOW****PRESENT****JUSTICE ANIL KUMAR****PRESIDING OFFICER****I.D. No. 11/2016****Ref. No. L-22011/25/2015-IR(CM-II) dated 04.02.2016****BETWEEN****Shri Hazimsitulla, FCI Mazdoor Sangh sangrash Simiti U.P. 12/58 Shhid Nagar, Purana Kela, Lucknow - 226001.****AND**

1. Regional Manager, FCI District Office, Faizabad (U.P.) Faizabad 224001.
2. The Chief Manager, U.P., FCI Regional Office, TV/3 V Gomti Nagar, Lucknow 226001.

**AWARD**

By order No. L-22011/25/2015-IR(CM-II) dated 04.02.2016 the present industrial dispute has been referred for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 the Industrial Disputes Act, 1947 (14 of 1947) by the Central Government, with following schedule:

*“क्या क्षेत्र प्रबंधन, भारतीय खाद्य निगम, फैजाबाद व लखनऊ द्वारा श्री लोहा सिंह, लोडर को सरदार के पद पर पदोन्नति न दिया जाना न्यायोचित एवं वैध है ? यदि नहीं तो कामगार किस राहत को पाने के हकदार है?”*

Accordingly, an industrial dispute No. 11/2016 has been registered on

On 21.04.2016, on behalf of the workman statement of claim has been filed, inter alia prying therein that applicant who was working on the post of Loader in the Bhandar/Depot of FCI at Barabanki may be promoted to the post of Sardar.

In this regard in brief it is pleaded on behalf of the workman that one Sri Chet Ram who was working on the post of Sardar in the same region, in which the claimant was working, died on 21.12.2012, so, applicant may be appointed/promoted and be given designation as Sardar.

On 15.07.2016, on behalf of the respondent a written statement filed and in paragraph 05 of the same a specific plea has been taken, quoted as under:

*“5. यह कि क्लेम के पैराग्राफ वाद बिन्दु संख्या 5 अस्वीकार है क्योंकि कर्मकार लोहा सिंह को सरदार के पद पर नियमानुसार पदोन्नति प्रदान नहीं की जा सकती क्योंकि लोहा सिंह लोडर के पद पर कार्यरत है। नियमानुसार लोडर की पदोन्नति मंडल के पद पर होती तदोपरान्त मंडल की पदोन्नति सरदार के पद पर होती है।”*

Thereafter on 28.11.2016 rejoinder has been filed on behalf of the workman and documents have been exchanged between the parties.

On behalf of the workman/Loha Singh, affidavit/examination-in-chief was filed on 16.12.2017 (W-7) and cross-examined on 27.03.2018.

During his cross-examination he has admitted the following facts:

*“Yah sahi hai ki varshthta suchi mein mera naam dusre kramank par hone ke karan niyamanusaar main sardaar banaye jane ka paatr nahi hoon.*

*Loader ke pad dpar karyarat hon evam niyamanusar meri padonnati mandal ke pad par honi chahiye.*

*Mandal me pad par karyarat vayakti ki padonnati sardar ke pad par hoti hai.*

*Yah sahi hai ki maine vibhag se jo bhi patrachaar kiya hai vo sardaar ka pad paane ke liye kiya hai. Yah bhi kahna galar hai ki sara patrachaar farzi hai.*

*Mujhe gyan nahi hai ki manda, gauri Shankar ne sardaar banne ke liye RLC ke samaksh dava kiya hai”*

On behalf of FCI, evidence (examination-in-chief) of Sri Ashish Kumar, Area Manager, FCI, Faizabad was filed, who was cross-examined on 01.11.2018.

On 27.02.2023, when the matter was taken up in revised cause list, in pursuance to order dated 09.12.2022 by which the matter was fixed for ex-parte hearing none was present on behalf of workman, in spite of the notice was sent to workman/claimant as per order dated 09.12.2022, so, the matter was heard.

Sri W.A. Khan, learned counsel for FCI submits that the claim as set up by the claimant for promoting him from the post of Loader to the post of Sardar, who is working in the Bhandar/Depot of Barabanki, which comes under the Faizabad region cannot be granted in view of the circular dated 23/24-02-2006 filed on behalf of respondent as M-9 and not denied by the workman, relevant portion of the same is quoted hereunder:

*“Sub: Re-organization / Merger of labour gangs in the Departmental and DPS categories criteria to the followed at the time of merger of gangs, fixation of seniority for the purpose of promotion from handling Labour to Mondal and from Mondal to Sardar.*

*It may be recalled that each labour gang in the categories of departmental Labour and Direct Payment System (OPS) about consists of 1 Sardar, 1 Mondal and 12 Handling Labour. Those labour systems have been in existence since 19/9/1973 in various depots/Godowns of the FCI. The strength of most of the labour gangs is reduced considerably and even to 3-4 persons in some cases due to death/superannuated /retirement / Voluntary Retirement etc. during such a long intervening period. The existence and working of such short/broken gangs has proved as detrimental to the operational exigencies as well as equitable distribution of work amongst the available labour gangs with shorter strength.*

*It may also be recalled that gang-wise seniority is maintained for the purposes of promotion of a handling labour to the post of Mondal & promotion of the Mondal to the post of Sardar of the same gang. Due to this provision it has not been possible to attempt merger of shorter gangs.*

*In view of the complications / difficulties being faced by the field offices in meeting out the operational exigencies as well as equitable distribution of work amongst the available labour gangs left with shorter strength, a great need was felt not only by the Management but also by the labour unions/workers to review the provisions of gang strength and consequently the seniority of the workers, the notion etc.*

*In view of the background & circumstances, the whole subject matter has been entrusted to the 'Saxena Committee'. The said Committee has read the views / comments given by various field offices of the Corporation labour unions on the subject. The Committee also made deliberations with the labour unions and submitted its report to the Management.*

*The Committee's recommendations have been examined & considered in consultation with Hqs. Legal & Finance Divisions and it has been decided to implement the recommendations as under so as to resolve this long pending issue.*

*(i) The depot-wise seniority of each category i.e. handling labour, Mondal & Sardar of the existing workers of the same depot, may be framed and maintained for the purpose of promotion. The depot-wise seniority will be framed on the basis of date of induction/joining and the age of the labourers where the date of joining is the same. Since this will change the existing service condition of maintaining the gang-wise seniority earlier agreed vide clause 7 of the Memorandum of Settlement signed on 24.5.1984 between the FCI Management and the FCI Workers' Union, a formal 'notice of even number dated 23.02.2006 has been given by the FCI Management for 'termination of said clause 7 of the MOS dated 24.5.1984', as per the requirement under the provisions of Industrial Disputes Act, 1947.*

*(ii) Since the seniority of various labour gangs is reportedly identified from the gang no. allotted to each of the gangs starting from gang no 1 in descending order in any depot / unit, the Merger of gangs may be done by breaking the last Serial number of gang of the depot first and the process should proceed in descending order. For example, if there are 20 handling labour gangs in a depot and Gang No. 3 is short by 4 Handling Labour, Gang No. 15 is short by 2 Handling Labour and Gang No. 17 is short by 1 Handling Labour, then the senior most incumbents from the last gang i.e. gang No. 20 may be distributed and merged with Gang No. 3, Gang No. 15 and Gang No. 17 on the basis of seniority in ascending order of Gang No. 3, 15 and 17. This will most possibly ensure that after merger, the gangs consist of workable combination of age group amongst the labourers of the same gang for smooth functioning.*

*(iii) The left over Sardar, Mondal & Handling labour of the gang(s) wherefrom the labourers have been taken out and merged with other gangs as above, will be kept & maintained in leave reserve pool and they may be utilized in the regular labour gangs against the leave vacancies on day to day basis and on rotation basis so as to ensure equitable utilization of the available labourers in the reserve pool. They will be paid attendance allowance for the day of non-booking.*

*(iv) The labourers so placed in leave reserve will be adjusted in the regular gangs on the basis of the depot-wise seniority against the vacancies as and when they will arise in future. Thus, gradually leave reserve pool will lapse. Further promotions to fill up the vacancies of Mondal and / or Sardar in any Gang of the depot, may be done on the basis of depot-wise seniority that will be framed as per para (1) above.*

(v). *Wherever the gang merger has already been implemented through any other amicable settlement/conciliation authority under the I.D. Act. 1947, necessary action may be taken to get such arrangements terminated by following the provisions of Industrial Disputes Act, 1947. so as to implement the above policy on uniform basis without any discrimination.*

*Necessary action may be taken immediately on the above lines with regard to re-organization/merger of labour gangs in the Departmental and DPS categories.*

*As regards the change / revision of seniority from gang-wise to depot-wise for purpose of promotion, the above instructions shall take effect immediately after expiry of two months from the date of issue of the notice of intention to terminate Clause 7 of MOS dated 24.05.1984, as per the statutory requirement under Section 19 of the I.D. Act 1947."*

Accordingly, the learned counsel for management submits that the present case is liable to be dismissed.

I have heard the learned counsel for FCI and perused the record.

In the present case the sole grievance as raised by the claimant is in respect to promotion from the post of Loader to the post of Sardar on the ground that as Sri Chet Ram who was working on the post of Sardar in Faizabad region, died on 21.12.2012 so, the claimant who is working as loader in Gang no. 1 at Bandar/Depot at Barabanki, which comes under the Faizabad region be promoted to the post of Sardar.

From the perusal of the circular No. 7 of 2006 subject – “Re-organization / Merger of labour gangs in the Departmental and DPS categories criteria to be followed at the time of merger of gangs, fixation of seniority for the purpose of promotion”, the relevant portion of which is quoted hereinabove, the position which emerged out that in a labour gang of FCI in a particular region in the category of department and direct payment system (DPS), the following posts exist (a) one Sardar (b) one Mondal and (c) twelve handling labour.

Further, from perusal of cross-examination of workman, Loha Singh on 27.03.2018, in pursuance, to his evidence on affidavit, filed on 16.12.2017, the facts which emerged out are as under:

- (a) That he was working on the post of loader since 01.03.1998 at Gang no.1, FCI, Bhandar Depot, Barabanki.
- (b) It is correct that in the seniority list of the persons who are working in Gang no. 1 his name is at serial no. 1 and as per Rule he is not eligible to be promoted to the post of Sardar. And as per the Rule a person who is working on the post of loader shall be promoted to the post of Mondal and from the post of Mondal, promotion is made to the post of Sardar.

Moreover, on behalf of the respondent, evidence in shape of affidavit of one Sri Ashish Kumar Mishra, Area Manager, who is working on the post of Regional Manager, FCI Depot, Barabanki in which claimant, Loha Singh was working as Loader, position which emerged out that in his affidavit (examination-in-chief) it is categorically stated that the workman was working in Gang no. 1 on the post of Loader and from the said post he was to be promoted to the post of Mondal and thereafter, to the post of Sardar, so, claimant is not entitled to the post of Sardar after death of Sri Chet Ram on 21.12.2012.

Further, in para 04 of his affidavit he has stated that in FCI Depot, Barabanki, the workman was working as Handling Labour and his name finds place at serial no. 127 of the seniority list and his identity card no. is 107 and his date of birth is 10.06.1972 and in Gang no. 1 he is working on the post of Loader; and at present one Sri Gauri Shankar whose date of birth is 07.06.1961 is working on the post of Mondal, hence, he is not entitled to be promoted on the post of Sardar.

Thus, from the combined reading of material on record specially affidavit filed by the parties/ cross-examination the position which emerged out that applicant was working on the post of Handling Labour/Loader in Gang no. 1 of FCI Bandar, Barabanki and his name was also at serial no.2 of seniority list of Handling Labour/Loader in Gang no. 1; and as per circular dated 23/24-02-2006, in a particular depot of FCI (in present case, Barabanki Depot) Gang wise, promotion is made on the post of Sardar, from the seniority list of the persons who are working on the post of Mondal and not from the post of Loader who is working in a particular gang.

In view of the said facts applicant/workman is not entitled for promotion to the post of Sardar as claimed by him.

For the foregoing reasons the reference is adjudicated against the workman, Loha Singh; and he is not entitled to any relief.

Award as above.

Lucknow.

Justice ANIL KUMAR, Presiding Officer

23<sup>rd</sup> June, 2023

नई दिल्ली, 4 अक्टूबर, 2023

**का.आ. 1620.**—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन, संबद्ध नियोजको और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण / श्रम न्यायालय कोलकता के पंचाट (19/2008) प्रकाशित करती है।

[सं. एल-22011/65/2008-आई. आर. (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 4th October, 2023

**S.O. 1620.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.19/2008) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Kolkata* as shown in the Annexure, in the industrial dispute between the management of Central Bank of India and their workmen.

[No. L-22011/65/2008 – IR (B-II)]

SALONI, Dy. Director

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

**Present : Justice K. D. Bhutia, Presiding Officer.**

**REF. NO.19 OF 2008**

**Parties : Employers in relation to the management of**

**Central Bank of India**

**AND**

**Their Workmen**

Appearance :

On behalf of the Management : Absent

On behalf of the Workman : Absent

**Dated: 29<sup>th</sup> May, 2023**

#### **AWARD**

Both the management and the Union are found absent.

The Union fails to appear despite due service of notice upon it. That apart, order sheet reveals since 28.5.2018. Therefore a presumption can be drawn that Union has espoused the present dispute is no more interested with the hearing of the case.

From the record it is seen both the Union and management had put their appearance and filed their respective written statement of claim and objection. The Union has also examined Deepak Kumar Pal as WW-1 and one Chinmay Mondal WW-2 and six documents has been produced by Mondal have been marked as Ex.W-1 to W-6.

The management has filed evidence in chief of Jairam Sahi, but management has failed to tender his evidence in chief filed on affidavit or produce him for cross-examination.

However, Central Government through Ministry of Labour vide order No.L-12011/65/2008 dt.18.8.2008 has referred the following dispute for adjudication by this Tribunal.

*Whether the action of the management of Central Bank of India, Kolkata in carrying out and effecting redeployment of non-subordinate staff of the Bank without determining/deciding the strength of the staff and other allied matters is justified? If not, what relief the concerned workmen are entitled to?"*

The Union in its claim statement has stated it is a registered trade union of the staff of Central Bank of India, Kolkata Zone. It is affiliated to Indian National Bank Employees' Federation (INBEF) and All India Central Bank Employees' Congress. These two national level unions hold periodical joint discussions with the management of Bank on behalf of the employees of Central Bank of India.

INBEF had entered into a bipartite agreement with the management on 27.3.2000 and on 02.4.2005. Clause 32 of the Bipartite Settlement provides that "It is generally perceived that there is a scope for redeployment of staff in banking industry. There are pockets of surplus/deficit in areas of operation in different centres in different Banks. It is desirable that these imbalances in deployment of staff are corrected. As it will not be possible/practical to arrive at a uniform policy in this regard having regard to the situation varying from Bank to Bank. The parties hereby agree that the matter be resolved at the level of each Bank. Bank level agreements, if any, as of now may require appropriate amendments, which shall be mutually settled.

It has been alleged such agreement was in respect deployment of non-subordinate and not in respect of subordinate staff.

But the management of Central Bank of India at its Central office, Mumbai passed certain instructions to all the Zonal and Regional Offices throughout the country to carry out re-deployment of subordinate staff without even disclosing to the unions or to the workmen of the Bank sometime in the time of March 2007. Such instruction was silent about the criteria for such re-deployment and for determination of the strength of subordinate staff on the centres/pockets from which the members of subordinate staff are to be deployed to other places. When the union came to know about such illegal move of the management, it expressed its written objection and grievances to the Chairperson and Managing Director vide letter dated 05.4.2007. But the management did not pay any attention to the letter of the union dated 05.4.2007. Once again the union brought to the notice of the management about their grievance against such instruction issued by Central Office, Mumbai in the month of March vide letter dated 13.4.2007 along with some suggestion to ease out the problem faced by the Bank for shortage of staff in some pockets and branches before the management.

It has been alleged by the union that if re-deployment of subordinate staff is done by haphazard or unplanned manner without first devising a rational and reasonable criteria and methodology to determine/identify the staff surplus/ staff deficit branches is bound to lead to multi-fold disputes, controversies, complexities, apart from leading to wide spread discontent, dissatisfaction and unrest among the staff which would be injurious to the business needs of the bank. It has been alleged that the management in order to pave the ways for smooth sailing of their redeployment programme hastily managed to get the Memorandum of Settlement signed by majority union i.e. All India Central Bank employees Federation on 07.11.2006.

Thus it has raised the present dispute against the management for re-deployment of subordinate staff in/from Kolkata zone of the Bank without first determining/deciding the strength of the subordinate staff in the centres/pockets for which re-deployment is to be effected on other centres/pockets. Therefore, it has prayed for cancellation and withdrawal of the re-deployment programme without proper guideline. Direct the Bank to prepare scheme for re-deployment and to review the cases where service conditions of the staff members has been adversely affected due to re-deployment carried out on the strength of Memorandum of Understanding dt.07.11.2006.

On the other hand, the bank in its written statement has alleged that the claim statement is silent about the names of the persons who have been adversely affected by re-deployment scheme initiated by the Central Bank of India. Management has already entered into agreement with majority of union on 07.11.2006 and as per such agreement re-deployment can be done up to 100kms distance within the district. The Bank has formulated a policy for re-deployment after consulting the majority union AICBEF. It is the plea of the prerogative management to implement the policy taking into consideration various facts which need not be acceptable to others but factor for consideration is in generality keeping in view the need based requirement of bank. Management has taken various factors as stated in MOU dated 7.11.2006 and has implemented the scheme. Management has considered the need based factors and implemented the scheme. Therefore, it has prayed for dismissal of the claim made by the minority union.

The management has filed evidence in chief of an affidavit of one Jairam Sahi but it has failed to tender his evidence or produced him for cross-examination by the Union.

The re-deployment letter dt.15.11.2006, which has been annexed along with written statement by the management shows, that indeed there was no Bipartite settlement between the subordinate staff of the Bank in respect of their redeployment in 8<sup>th</sup> Bi-partite settlement dated 24.6.2005, but at the same time it disclose the practice difficulties faced by the Bank on promotion of 1000 clerical staff to Officer cadre Scale-1, and imbalance that was created in the clerical strength in various centres. To mitigate such situation, bank took a decision for re-deployment of staff from surplus centres to deficit centres and which further reads as follows:

"The posting of clerical staff in special pay posts like Special Assistant, Head Cashier-II, Computer Operator 'A' and Teller is either as per the provisions of PPA or as per the criteria/approvals accorded by Central Office and the same will guide the Zones/Regions on this score. However, the necessity for pure clerks (i.e. those not drawing any special

pay on permanent basis) should be carefully assessed in each branch (in consultation with the concerned Regional Managers) having regard to the presence of clerks with special pay posts, the existing business mix and perspective business plan, number of accounts and number of vouchers or any other factor which they deem fit and appropriate to take into account in respect of a particular branch/centre. By taking into account the above, all Zonal Managers should identify the surplus and deficit centres (in respect of clerical staff) in consultation with the concerned Regional Managers.

To identify the number of clerical staff who can be redeployed under these norms.

Upon doing the above exercise, all Zonal Managers should submit the following information within 7 days from the date of communication through Fax.

Number of centres identified as surplus and deficit (Region-wise and District-wise).

Number of clerical staff identified for redeployment within the District.

Number of clerical staff identified for redeployment outside the District but upto a distance not exceeding 100 KMs, as per the provisions of these norms.

As stated above, the entire exercise including furnishing the information as required under para (5) above, should be completed within 7 days from the date of this communication and as such all Zonal Offices should give utmost priority to this matter and do the needful immediately”.

Annexure-II shows Memorandum of Settlement was entered into by and between management of Central Bank of India and or of India Central Bank Federation recognized majority union for the staff of the bank. Memorandum of settlement entered in by the management and Central Bank of India dt.7.11.2006, shows that Union and the management agreed for re-deployment of clerical staff following terms and conditions:

- 4.1 A workman in the non-subordinate cadre is liable to be deployed anywhere within District irrespective of the distance involved.
- 4.2 In cases necessitating deployment outside the District, the workman concerned may be deployed to any branch/office of the bank situated outside the District upto a distance not exceeding 100 kms from his present place of posting.
- 4.3 Bank may identify, based on length of stay at the centre/branch/office, the number of workman employees, to be redeployed from each centre/branch/office to meet its requirements.
- 4.4 The period of deployment shall be 3 years in all centres except in case of difficult centres which are decided as such by the Bank in accordance with the Government guidelines, in which case the period of deployment shall be two years.
- 4.5 Repatriation to the original centre shall be after serving in the deployed centre for period as stipulated in Para 4.4 above. In case it is not administratively possible for the bank to repatriate the employee to his original centre after the above period, the employee may be required to give 3 centres of his choice so that he can be transferred to any one of the 3 centres opted by him.
- 4.6 Female employees above the age of 55, and male employees above the age of 56 shall be exempt from redeployment. However, if the required and eligible number of employees are not available to be deployed in terms of the Settlement, the age norms as above may  
be suitably relaxed upto the age of 58 years so as to ensure that the required and eligible number of employees are deployed to be identified centres.
- 4.7 Employees having mentally retarded/spastic children, certified as such by the attending Doctor, may be deployed only at centres specialized treatment for such children and special facilities for their schooling are available.
- 4.8 Employees affected by serious ailments requiring specialized treatment, as certified by the attending Doctor, will be deployed only at centres where medical facilities for treatment of such ailments are available.
- 4.9 Redeployment of physically handicapped/challenged employees shall be in accordance with the extent Government guidelines.
- 4.10 A workman in the non-subordinate cadre so long as he/she serves in the deployed centre shall draw a lump sum amount of Rs.400/- p.m. (not ranking for any other benefit) besides protection of emolument drawn at the original centre. These shall cease on the employee's repatriation to the original centre.
- 4.11 The above lump sum amount is not payable in case of transfers made at the request of the employee.



- 4.12 In North-Eastern States, management may decide on the level and extent of deployment having regard to their requirements within the above norms, through further discussions.
- 4.13 The above provisions on deployment are without prejudice to the provisions of paragraphs 535 and 536 of the Sastry Award relating to transfer of workmen.

Hon'ble Supreme Court of India in Oil and Natural Gas Commission Ltd v/s. President Oil Field Employees' Association and others in Civil Appeal No.1033 of 2022 has been pleased to hold that "Minority union of workers may raise an industrial dispute even if another union which consist of the majority of them enters into a settlement with the employer but at the same time, it has been observed the scope of jurisdiction of the industrial court is wide and in appropriate cases it has a jurisdiction even to make a contract".

Annexure –I, the circular clearly speaks that due to promotion of more than 1000 clerical staff to Officer Grade scale-I, huge vacancy had been created in the different branches of the bank, in the clerical post and for which the bank was facing difficulties in running business of the bank. That finding no other alternative, the bank had to issue the impugned circular for deployment of clerical grade staff but on certain terms and condition with the memorandum of understanding executed the majority union and the bank on the terms and conditions mentioned above.

Therefore, this Tribunal is of view the Bank for effective administration and for smooth functioning and to avoid harassment to its customer, has adopted correct decision of deployment of subordinate staff from surplus branches to branches having deficit staff. The subordinate staff, who too are the employees of the Bank non subordinate staff are equally responsible to co-operate with the Management and to see the business of the Bank is not suffered. The terms and conditions of deployment mentioned above do not appear to be prejudicial and against the interest of the sub-ordinate staff, rather appears to be just and fair.

Further, this Tribunal is of view in a short span of time it would not been possible for the Management to fill up the vacancy created by the Promotion of 1000 clerical staff to Managerial post, Sclae-1, as recruitment is a time consuming process. The step taken by the Management to solve the then prevailing situation appears to be just and fair, though bipartite settlement is silent about the redeployment of sub-ordinate staff.

Therefore, this Tribunal does not find any illegality in the circular dated 09.1.2007 or in the terms and conditions of the settlement dated 07.11.2006. That apart the union has challenged the circular dated 09.1.2007 and the memorandum of settlement dated 07.11.2006 and today is 2023 the relief claimed by the parties appears to have become redundant and infructuous as in between several bipartite settlements might have taken place between the Management of the Bank and the registered Unions and several policies might have been adopted on redeployment of subordinate staff. Perhaps for this reason both Management and Union have stopped pursuing with the hearing of this case.

In view of the above, this Tribunal do not find any merit in the reference. Accordingly the same is dismissed and Award to that effect is passed.

Reference case no.19 of 2008 is disposed of.

Justice K.D. BHUTIA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 2023

**का.आ. 1621.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 15/2000)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **25/09/2023** को प्राप्त हुआ था।

[सं. एल-20012/288/99-आई. आर. (सी-1)]

मणिकंदन. एन., उप निदेशक

New Delhi, the 4th October, 2023

**S.O. 1621.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No.15/2000**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of **C.C.L.** and their workmen, received by the Central Government on **25/09/2023**.

[No. L-20012/288/99 – IR (C-I)]

MANIKANDAN. N, Dy. Director



**ANNEXURE**  
**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD**  
**PRESENT**

Dr.S.K.Thakur,  
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947.

**REFERENCE NO 15 OF 2000.**

**PARTIES:** : Shri Vinod Kumar,  
Near JSM College, Double Storey,  
Qr.No. B-34, New Colony, PO: Bermo,  
Dhanbad-828121  
(Jharkhand).

**Vs.**

The Chairman-cum-Managing Director,  
Central Coalfields Ltd.,  
Darbhanga House.  
Ranchi

**Order No. L-20012/288/99(C-I) dt.21.02.2000**

**APPEARANCES :**

On behalf of the workman/Union : None .

On behalf of the Management : Mr.D.K.Verma. Ld. Advocate

**State :** **Jharkhand**

**Industry :** **Coal**

Dated, Dhanbad 28<sup>th</sup> July, 2023

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their **Order No. L-20012/288/99(C-I) dt. 21.02.2000.**

**SCHEDULE**

**Whether the action of the Management of CCL in dismissing Sh.Vinod Kumar, Cat.I from the services of the Company is just, fair and legal? If not ,to what relief is the workman entitled ?”**

- 2 In the present case, a reference was received from the appropriate Government vide Reference No mentioned hereinabove under Clause (d) of Sub-Sec. (2A) of Sec. 10 of the Act, for a adjudication of a dispute, of the terms mentioned as under Schedule. .
- 3 It appears from the records that both the parties were contesting the case by filing their respective written statement and the matter advanced at evidence stage whereby the Union Representative/workman could not produce any witness nor did appear for argument at preliminary point .The case deals with dismissal of the workman .
4. During the course of hearing of the matter the domestic enquiry against the workman was declared on the preliminary point as fair and proper by the Tribunal, The proceeding arrived to the state of final argument. But it was noticed that Union/workman stopped representing the case in regular course without offering any cogent reason. Though, the Tribunal has granted more than sufficient opportunity to hear the case the workman nor his Union Representative did not turn up for representation. Finally, the matter of argument on merit appears to have started hanging over the years together without attaining finality on contest. The workman nor his Union Representative appeared and left the matter midway since 15.01.2013.

5. On examination the terms of Reference having regard to the facts and circumstances of the case based on material on record, the Tribunal finds no reason to continue with the proceeding of matter as even after granting more than ample opportunity the workman did not care to represent for adjudication. Accordingly it is decided to dispose of the Reference with No Claim Award being devoid of merit and substance due to the workman concerned being sheer disinterested to contest the case. Thus an Award is passed with no relief to the workman concerned.

Dr.S.K.THAKUR, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 2023

**का.आ. 1622.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 151/1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25/09/2023 को प्राप्त हुआ था।

[सं. एल-20012/137/92-आई. आर. (सी-1)]

मणिकंदन एन., उप निदेशक

New Delhi, the 4th October, 2023

**S.O. 1622.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No.151/1993**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of C.C.L. and their workmen, received by the Central Government on **25/09/2023**.

[No. L-20012/137/92 – IR (C-I)]

MANIKANDAN. N, Dy. Director

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

#### PRESENT

Dr.S.K.Thakur

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947

#### REFERENCE NO.151 OF 1993.

PARTIES: : The Area Secretary,  
United Coal Workers Union  
At/PO: Mandu, Dhanbad

Vs

Project Officer,  
Toppa Colliery of M/s CCL,  
Post Office: Toppa, Hazaribagh  
Order No.L-20012/137/92-IR(Coal-I) Dt.23.8.1993

#### APPEARANCES

On behalf of the workman /Union Mr. U.N.Lal Ld.Advocate

On behalf of the Management : Mr. D.K.Verma, Ld.Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 31<sup>st</sup> July 2023**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/137/92-IR(Coal-I) dt 23.08.1993.

**SCHEDULE**

“Whether the actions of the Management of Toppa Colly. Of M/s C.C.Ltd., in dismissing the 31 workmen as mentioned in the list enclosed is justified? If not, to what reliefs are these workmen entitled?”

**List of the workman**

Sl.No.	Name	F.B.No.	Desgn.	Dt. Of dismissal order	Effective Dt. Of dismissal
1.	Sri Bhundshwar Mistry	1240	P..R.	02.12.89	25.02.89
2	Shyamlal Manjhi	1066	Cat.II	04.05.88	13.07.97
3	Sri Gomilal Manjhi	30	Cat.V	04.05.88	09.12.85
4.	Sri Maha Manjhi	2109	P.R.	31.03.88	09.09.86
5	Sri Jhanku Manjhi	537	Cat.I	29.07.88	08.07.87
6	Smt.Fulo Devi	1636	P.R.	31.03.88	30.04.86
7.	Sri Charku Manjhi	2562	P.R.	31.03.88	30.04.86
8	Sri Sawna Munda	670	Cat.I	11.03.88	11.02.85
9	Sri Dukhan Munda	608	P.R.	31.03.88	11.02.85
10.	Parwa Bhuiya	3133	P.R.	31.03.88	05.07.86
11	Sri Biswanath Mahato	2668	P.R.	30.03.87	05.05.86
12.	Sri Chaman Mahato	109	P.R.	06.04.87	02.02.80
13	Sri Motilal Badiya	1565	P.R.	20.03.87	20.04.85
14	Sri Somra Bhuiya	1546	P.R.	06.03.90	13.12.86
15	Sri Mahabr Bhuiya	1245	P.R.	14.03.89	--
16	Mahato Sri Baldeo	545	P.R.	09.06.89	--
17	Sri Tunuwa Munda	636	P.R.	08.11.89	13.07.87
18	Sri Janki Manjhi	556	P.R.	30.11.89	24.09.89
19	Sri Jago Manjhi	305	P.R.	30.11.89	29.08.89
20.	Bhuiya Sri Birwa	519	P.R.	08.04.89	26.06.87
21	Sri Ramjatan Bhuiya	3499	P.R.	29.11.89	09.02.89
22	Sri Mehilal Manjhi	2646	P.R.	20.11.89	21.11.87
23	Sri Hopna Manjhi	532	P.R.	21.08.89	21.03.88
24	Sri Talo Manjhi	802	P.R.	24.03.89	21.09.87
25	Sri Manohar Korra	1550	P.R.	14.03.89	--
26	Smt.Fulmani Kamin	276	P.R.	17.07.89	19.09.88
27	Smt. Bandiya Kamin	2462	P.R.	09.12.88	05.05.88
28	Sri Naywa Manjhi	163	Cat.III	09.03.89	--
29	Sri Ramdhani Karmali	2095	Trammer	08.11.88	16.06.87
30	Sri Raghuwa Ganjhu	754	P.R.	07.09.89	10.08.83
31	Sri Talo Manjhi	2448	P.R.	08.03.90	08.03.88

- The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the Management of Toppa Colliery of M/s CCL and its workmen/claimants herein, under clause (d) of Sub Section (1) and sub Section (2A) of Sec. 10 of the Industrial Dispute Act 1947 to this Tribunal for adjunction.

3. The Sponsoring Union on behalf of the workmen in claim petition dt 07.01.1994 stated that workmen involved in the case were workers of the Toppa Colliery under CCL Management holding permanent status were dismissed from services retrospectively which prima facie reflects illegal and void. Introducing a policy of cut-short of man-power strength by way of pre-mature superannuation and termination of service of workmen, the Toppa Colliery Management of M/s CCL evolved a plan of termination of service by stopping workmen from duties and, sometimes showing them absent from their duties thereby issuing chargesheet for unauthorized absence. Thereafter, holding enquiry and charging with guilty of misconduct they dismissed them from services. Most of the workmen being illiterate were removed from services on grounds of misconduct and absenteeism. The union described the action of the Management illegal, unjustified and a case of unfair labour practice thereby seeking reinstatement in service of workers with full back wages and other consequential benefits.
4. Contrary to it, the OP/management contested raising the question of maintainability of the proceeding as not valid ground of Industrial dispute defended the case that in order to discourage worker from absenting from duty and encouraging them for putting in increasing attendance to boost up production in view of sharp hike in their wages over the years the policy was adopted by the Toppa Colliery of CCL. Considering the absenteeism position and gravity of the charges the workers were charge-sheeted separately and found them guilty of the charges levelled against them. The OP/Management relied in support of their stand and contention on the proceeding of the domestic enquiry with rejecting the claim of the Union.
5. The claimants filed rejoinder reiterating the stand taken in the claim petition with voluminous records of the enquiry papers in relation to workmen individually therewith several Exhibited and Non Exhibited documents.
6. Before the Tribunal the workmen did not adduce evidence but the O.P./Management produced evidence as MW-I and MW-2. During the course of proceeding Ld. Representative for the Management supported the order of the disciplinary Authority imposing punishment of dismissal as proper fair and reasonable. Out of the 31 workmen some passed away and rest participated the said proceedings. Based on findings this the Tribunal declared the enquiry so conducted by the Management as fair and proper vide this Tribunal order dated 30.06.2014.
7. During the course of hearing the aggrieved claimants were called upon for hearing arguments on merit the workmanside did not turn up. Perusal of the case record shows that voluminous records in the capacity of individual workmen have been filed in relation to enquiry papers to corroborate the stand taken by them. But they did not take step in the matter in furtherance of the proceedings of the case. Since 07.05.2019, the claimants left representing the matter. It has resulted in the matter scheduling and rescheduling on different dates with no progress in sight. As a matter of fact they did nothing in taking steps in subsequent dates and remained absent in regular course of hearing despite six opportunities provided after 07.05.2019.
8. Law is well settled that the party challenging fairness of the enquiry carries the burden of proving the unfairness of the inquiry declared fair and proper. The matter of arguments has been hanging since 30.06.2014. Due to non-representation in the hearing of the proceedings the claim stands unproved. Thus, the pleading made by them have not found support from any evidence or documentary proof as the workers could not prove their cause of action and left the matter in mid way. So the reference of the case became collapsed in passage of time.
9. Therefore, it is held that the claimants are not interested to contest the case on merit. In this situation it is fairly presumed that the claim is non-existent and any dispute between the employer and employee is found non-existent. Accordingly 'No Claim Award' is passed with no relief to the workfare concerned.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 2023

**का.आ. 1623.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण— सह - श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 26/2000)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **25/09/2023** को प्राप्त हुआ था।

[सं. एल-20012/319/99-आई. आर. (सी.-I)]

मणिकंदन. एन, उप निदेशक

New Delhi, the 4th October, 2023

**S.O. 1623.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (**Ref. No.26/2000**) of the **Central Government Industrial Tribunal-cum-Labour Court NO. 2, Dhanbad** as shown in the Annexure, in the industrial dispute between the Management of **B.C.C.L.** and their workmen, received by the Central Government on **25/09/2023**.

[No. L-20012/319/99 – IR (C-I)]

MANIKANDAN. N, Dy. Director

#### **ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD.**

#### **PRESENT**

Dr.S.K.Thakur

Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D.Act.,1947

#### **REFERENCE NO.26 OF 2000.**

PARTIES: : Sri Dilip Chakraborty ,  
Area Secretary,  
Bihar Colliery Kamgar Union,,  
At/PO: Bhowra, Dhanbad  
Vs.  
The Project Officer,  
Bhowra O.C.P. of M/s BCCL,  
At/PO: Bhowra,Dhanbad  
Order No.L-20012/319/99-IR (C-I) ) dt 28.1.2000

#### **APPEARANCES**

On behalf of the workman /Union : none  
On behalf of the Management : Mr. D.K.Verma, Ld. Advocate  
State : Jharkhand  
Industry : Coal

**Dated, Dhanbad, the 28<sup>th</sup> August,2023**

#### **AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No.L-20012/319/99-IR (C-I) ) dt 28.1.2000

#### **SCHEDULE**

**“Whether the action of the Management of Bhowra CCP of M/s BCCL in dismissing Smt. Simoti Burin from the service of the Company w.e.f. 10.8.97 is justified? If not, to what relief the workman is entitled ?”**

- 2) This is a reference received from the appropriate Government to adjudicate the present dispute between employer i.e. the Management of Bhowra OCP of M/s BCCL and its workwoman /claimant herein ,under Clause (d) of Sub Sec. (1) and Sub Sec. (2A) of Sec. 10 of the Industrial Dispute Act.,1947 vide letter No referred herein above.
- 3 As stated in the claim petition ,the concerned female worker Simoti Baurin was a permanent employee of Bhowra (N) Colliery /OCP under Bhowra Area No. XI, Eastern Jharia Area of M/s BCCL as W/Loader..During the course of employment the workman concerned along with 204 others were transferred and the OP/Monument issued release order to all except her in view of pending chargesheet against her

The proceedings was under way on the ground of unauthorized absence. The claimant through Sponsoring Union took up the matter with the OP/Management for early release of the order but to no effect. Thereafter she was dismissed from service on that score. Being aggrieved the claimant raised an Industrial Dispute in which amongst others she pleaded against the action of the Management unfair and illegal. Upon the failure of the conciliation the appropriate Government referred the matter to this Tribunal for adjudication.

- 4) The Management filed written statement denying the stand taken by the claimant. It has been pleaded that there exists no industrial dispute and the claim is not maintainable.
- 5) The Claimant/petitioner opted to abstain to stay away from proceedings in regular course since October, 2005.. The Union left the matter in mid way in the matter of taking any furtherance to push up for finality and on advancing argument. The issue under Reference has turned as devoid of merit without any step by the claimant due to non-representation on the issue continuously for a longer period. The matter deserves to be declared No Claim for the ends of justice. Accordingly "No Claim Award" is passed with no relief to the workman concerned.

Dr. S. K. THAKUR, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 2023

का.आ. 1624.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार खड़की और ग्रामोद्योग आयोग, पुणे; निदेशक, प्रशासन एवं एच.आर., आईआरएलए विले पार्ले (पश्चिम), मुंबई, के प्रबंधतंत्र के संबद्ध नियोजकों और श्री तुकाराम भीकाजी पवार, कामगार, के बीच अनुबंध में निर्दिष्ट श्रम न्यायालय -1, पुणे पंचाट(संदर्भ संख्या 145/2019) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.09.2023 को प्राप्त हुआ था।

[सं. एल-42025-07-2023-197-आई. आर. (डीयू)]

डी.के. हिमांशु, अवर सचिव

New Delhi, the 4th October, 2023

**S.O. 1624.**—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. ID. No. 145/2019) of the **Labour Court No. 1, Pune** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Khadki & Village Industries Commission, Pune ; The Director, Adm & H.R., IRLA Vile Parle (West), Mumbai, and Shri. Tukaram Bhikaji Pawar, Worker**, which was received along with soft copy of the award by the Central Government on 30.09.2023.

[No. L-42025-07-2023-197-IR (DU)]

D. K. HIMANSHU, Under Secy.

#### ANNEXURE

#### **BEFORE PRESIDING OFFICER, FIRST LABOUR COURT, PUNE**

( **Presided over by Jamila M. I. Shaikh** )

**Reference (IDA) No.:- 145/2019**

- |   |                 |
|---|-----------------|
| 1) Khadki & Village Industries,             | )               |
| Commission 1153 Ganesh Khind Road,          | )               |
| P.O. Box No. 24, Pune-411016                | )               |
| 2) Dr. Sanjib S. Roy                        | )               |
| Directorate of Adm & H.R.                   | )               |
| IRLA Vile Parle (West), Mumbai-400056       | ) First Party;  |
| AND   |                 |
| Shri. Tukaram Bhikaji Pawar                 | )               |
| R/o. At Post Sus, Tal. Mulshi, Dist. 411021 | ) Second Party. |



Appearances : Adv. Mr. M. S. Gandhare, for first party.  
Adv. Mr. Amir Mulani, for second party.

**EX-PARTE AWARD**

( Passed on this 29<sup>th</sup> November 2022 )

1] This is a dispute raised by second party under section 2-A(2) of the Industrial Dispute Act, 1947, for adjudication of an industrial dispute between the parties in respect of the illegal termination of second party dated 14/02/2005 and benefits under the provisions of the Industrial Dispute Act, 1947.

2] The second party filed his statement of claim at Exhibit : U-1 stating that he was employed as Peon in C.B.R.T.I. Pune since 01/12/1977. That the second party was workmen, working with honesty and great sincerely and his service record is clear and there was no single memo given to him during his entire service tenure. That he was malafidely transferred from Pune to Vardha immediately from 16/11/2000. The second party submits that no opportunity was given to him in respect of preparation as no T.A. was given to him, he was unable to take charge at Vardha office. That he informed his superior inquiring about T.A. to Vardha but that was no records, superintendent informed that all his records has been transferred to Vardha office. That the second party was low paid employee and in such situation he was not able to join his duties at Vardha. It is submitted that the second party was then issued transfer order at Mumbai office from Vardha, there also due to lack of fund he was not able to join. The first party accordingly vide memorandum dated 06/10/2003 levelled charges against the second party that he has not complied with the order and remained unauthorizedly absent. In the said charge-sheet it was alleged that he did not join the services for more than 2.5 years after his transfer from Vardha and also he has not joined the duty in Administration Central Office Bombay. That due to his long absence the work of the office is disrupt and do not want to serve the commission, thus disobeyed the orders, violated regulation No. 3(1)(i) of the Employees Conduct Regulation, 2003.

3] The second party submits that during the enquiry conducted in respect of the charges levelled in the charge-sheet he was present only for one hearing and all further enquiry was conducted ex-parte. The second party states that he has denied the charges in writing while replying the charge-sheet and submitted that as he had brought some corrupt practices of some of the officials to the notice of head authorities, therefore he was victimized by them. It is submitted that the enquiry officer has not considered his defence and straightaway conducted the enquiry ex-parte against him without giving any opportunity to defend himself, not allowing to engage any representative, further the enquiry officer submitting his report is against proof. Second party further submits that on the basis of the enquiry report the first party issued memorandum dated 01/11/2004 an opportunity was given to the second party for making representation on report. That the second party was given 15 days to file his representation but the first party did not give any further possibility after the expiry of the date and time mentioned in the letter. It is submitted that the first party removed him from the services without considering his representation. The second party further submits that being aggrieved he approached the Hon'ble High Court but the case was withdrawn.

4] It is submitted that he was not given the opportunity as per natural justice while conducting the domestic enquiry, therefore the termination order is illegal and the charge is framed against the second party workman are baseless and without application of mind. It is submitted that the second party was transferred to Vardha which is far away destination from his native place Pune with malafide intentions and he was victimized by his superior authorities. That the first party did not consider the financial difficulties of the second party while joining his duty to Vardha and Bombay office as he was having low salary. It is submitted that the second party was ready to join the Bombay office but the first party did not gave him time to join his services, no travelling allowances were paid on his transfer on 17/11/2000 and immediately on 20/11/2000, his service record was sent to Vardha office. That the second party was union leader therefore he was made eyesore and purposely terminated his services. No pension, gratuity, provident fund or any legal dues were paid for his 22 years continuous service. It is submitted that he has worked sincerely for 22 years and he was not paid allowances and that now he has attained the age of 65 years. The second party further submits that since the termination is without paying any legal dues, he is eligible for an amount of ₹ 12,438/- along-with interest for six months. The second party approached the Central Labour Commissioner by against his termination under section 2(A) of the Industrial Disputes Act, 1947 and accordingly, Labour Commissioner issued letter dated 08/04/2019 to file dispute before Labour Court. Hence prayed that the illegal termination dated 14/02/2005 be set aside and the enquiry conducted against him be declared as not fairly conducted. It is further prayed that all legal dues as applicable be paid to the second party or issue recovery as per the procedure of law including pension, provident fund, gratuity and other legal dues. Affidavit in support of his statement of claim is filed at Exhibit U-2.

5] It appears from the record that since the first party failed to file written statement, by order dated 24/10/2019 the "no written statement" by first party such order was passed. The first party did not take any steps for setting aside the order. Hence, the second party proceeded with ex-parte evidence and filed affidavit of evidence at Exhibit U-10, documents along-with Exhibit U-3, U-8 and U-13, thereafter filed evidence closing pursis at Exhibit U-14 and written argument at Exhibit U-15.



6] From the pleadings and documents following points arise for consideration. The same are decided along-with findings and reasons thereon are as follows :

POINTS	FINDINGS
1] Whether the domestic enquiry conducted against the second party is unfair ?	No.
2] Whether the report of enquiry officer is illegal ?	No.
3] Whether the second party proves that the termination order dtd. 14/02/2005 is illegal ?	Yes.
4] Whether the second party is entitled to the reliefs as claimed ?	Yes.
5] What award ?	Reference allowed.

### REASONS

7] **AS TO POINT NOS. 1 TO 4 :-**

The second party has claimed that he has been illegally terminated on the basis of domestic enquiry and prayed to declare that the enquiry as unfair and beyond natural justice. Further prayed recovery of his legal dues such as pension, provident fund, gratuity and others. The second party reiterated the contents of his statement of claim on oath in his evidence affidavit at Exhibit U-10. From the pleadings of second party, it appears that he was issued charge-sheet for remaining absent as he has not joined the transferred place. The second party has admitted in his statement of claim as well as in his evidence affidavit that he did not join the transferred place as he was facing financial difficulties and not paid advance T.A. by the first party. The second party has filed on record various documents in order to prove his employment and enquiry proceeding such as charge-sheet, various memos, enquiry proceeding, report of enquiry officer, reply of second party to the enquiry officer's report, termination order dated 14/02/2005, order of Hon'ble Bombay High Court and Hon'ble Supreme Court. Thus it appears that the second party was issued a transfer order dated 16/11/2000 from Pune to Vardha which as admitted by second party he has not joined. Further he was again issued a transfer order from Vardha to Mumbai which as admitted he did not join. Now the second party has challenged that the enquiry was not proceeded as per natural justice, on perusal of enquiry proceeding which is filed by the second party, the second party is stated to have been present before enquiry officer and gave explanation as to why he did not join the transferred office giving reason that since he could not get advance T.A. and joining time facilities, he could not join Vardha office, he has also given reasons due to his complaint about misdeed of some officials, he is harassed by the transfer orders.

8] The explanation which was given by the second party before the enquiry officer, the same reasons and grounds are mentioned by the second party in his statement of claim as well as affidavit. Further from the enquiry report, it appears that the enquiry officer has given time and opportunity to the second party to remain present in order to tender explanation and defense, the enquiry officer has noted in his report that by letter dated 18/12/2003 the second party informed about the dates of hearing, but he did not remain present on 16/01/2004, 18/03/2004 and thus the enquiry was proceeded ex-parte, but later on the second party appeared and tendered his explanation that he did not remain absent but he was victimized as he has brought the corrupt practices of some officers. The second party has admitted in his statement of claim that he remained present on one date of hearing, no reason is stated why he did not remain present on other dates of hearing before the enquiry officer. Therefore in my view even after giving opportunity the second party himself did not remain present on each dates of hearing, enquiry officer committed no wrong by proceeding exparte.

9] It appears from the report of enquiry officer that he was having various letters which was issued to the second party informing that if he did not join the transfer place disciplinary action will be taken against him and after considering the explanation of the second party as well as the documents filed by the first party concluded that the second party never applied for any T.A. advance, never mentioned in any of his communication with chairman nor he has made any communication that since he has not received T.A. advance, he could not join new office. It is also noted that the second party was ready to join Mumbai office provided he is paid T.A. in advance but the second party has not brought any evidence to show that he has applied for T.A. advance from office either in C.B.R.T.I. Pune or to the Directorate Administration Mumbai. Thus, in view of the admitted statement made by the second party that since he did not receive T.A. advance, he could not join as per transfer order dated 16/11/2000 to Vardha and office of Central Administration, Mumbai for more than 2½ years which certainly shows that he was not on duty from the date of his transfer i.e. 16/11/2000 as charges levelled in charge-sheet. Therefore it does appears that the conclusion drawn by the enquiry officer is proper.

10] Thus from the material on record, it does appear that the second party not joining his transfer place even after orders in absence of any further order will definitely be considered as absent from duty. As reasoned about from the documents filed on record specifically the charge-sheet and enquiry proceeding, it has appeared that the principles of natural justice was followed while conducting domestic enquiry and that the enquiry officer was having some material to conclude that the charges are proved. But considering the facts and circumstances under which the second party could not join the transfer place, in my view the punishment of removing him from the service was exhaustive and therefore termination order dated 14/02/2005 is not proper and disproportionate to the proved misconduct deserves to be set aside. It is well settled principle of law that if an employee is absent from duty, the employer is legally entitled to deduct his salary on the principle of 'no work no pay'. Therefore, since the second party did not work from 17/11/2000 till 14/02/2005, he is not entitled for any back wages. However the second party is entitled for continuity of service and other benefits provided under law till the age of his retirement.

11] It has been brought on record that the second party has already crossed his age of retirement, but he has not received any legal dues. Thus the first party is directed to pay the second party his legal dues including pension and gratuity by considering him in service from 14/02/2005 till his retirement. Accordingly, reference is allowed and point Nos. 1 to 5 is answered accordingly.

**AWARD**

- (a) The reference is allowed.
- (b) The termination order dated 14/02/2005 is set aside and the second party is to be considered as continued in service from 14/02/2005 till his retirement age as per service rules / conditions applicable to first party.
- (c) The first party is directed to pay retirement benefits, legal dues including pension and gratuity by considering the second party continuity of service from 14/02/2005 till his retirement.
- (d) No order towards back wages and consequential benefits from 14/02/2005 till the date of his retirement.
- (e) Copies of the award be sent to the appropriate Authority / Government for necessary information and action as per rules.

Place : Pune.

JAMILA M.I. SHAIKH, Presiding Officer

Date : 29/11/2022.